IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 94 OF 2020

Mr. Altamash Asrar Ansari ... Applicant
Vs
The State of Maharashtra ... Respondents
...

Mr. Rajendra Rathod i/by Mr. Ali Bubere for the Applicant.
Mrs. J.S.Lohakare , APP for the Respondent-State.
Sr. PI Balkrishna Wagh attached to Cyber Cell Thane City present.

CORAM : SANDEEP K. SHINDE J.
DATE : 28th FEBRUARY, 2020

P.C. :

Heard.

2 The applicant is seeking his enlargement on bail in Crime No.214 of 2019 registered at Thane Nagar Police Station for the offences punishable under Sections 354(A) and 354 (D) of the Indian Penal Code, 1860 (**'IPC'** for short) along with offences punishable

under Sections 11(iii), (iv), (v), 13 and 14 of the Protection of Children from Sexual Offences Act, 2012 ('**POCSO**' for short) along with Section 67(B) of the Information Technology Act, 2000.

3 It is the prosecution's case that victim (an American national), who was allegedly 12 years old, became friends with the applicant on Instagram and thereafter, started chatting with him on Whatsapp. In the course of conversation, it is alleged that the applicant occasionally sent his obscene photos and videos to the victim and insisted the victim to send her obscene photos and videos to him, in return. It may be stated that the victim had also sent her photos and videos to the applicant on a couple of occasions.

4 It appears, victim's mother, on knowing about the exchange of the alleged photos and video clips, filed a complaint with Department of Police, USA

whereafter, the complaint was investigated into and the report of which was forwarded to CBI, New Delhi, which in turn was forwarded to the Additional Director General of Police, Pune and ultimately to Thane Nagar Police Station whereupon the said Crime came to be resgitered and the applicant came to be arrested for the offences punishable as stated hereinabove.

5 I have perused the messages exchanged between the applicant and the victim. These messages, prime-facie, do not suggest that the applicant had pressurised the victim to send her obscene photos/videos to him.

6 Be that as it may, apart from the offence punishable under Section 67(B) of the IT Act, the offences under Section 354A and 354D of the IPC are bailable offences. Additionally, as far as the offences punishable under Section 11(iii), (v) and (vi) of the

POCSO are concerned, it may be stated these offences are punishable with imprisonment for a term which may extend to three years. It may also be stated that as far as the offence under Sections 13 and 14 are concerned, the case, prima-facie, does not suggest the '*use*' of victim for pornographic purpose and the question regarding the same may be resolved at the trial. Therefore, prima-facie, I have no reason to refuse the bail to the Applicant.

7 Applicant is in custody since August, 2019. He is an engineer and a permanent resident of Thane. In view of this, his presence for the trial can be secured by imposing suitable conditions. Additionally, it can be said that even if the applicant is released on bail, there is no possibility of him tampering with the evidence or witnesses/complainant. Additionally, trial in this case may not commence and/or conclude in the near future.

8 For the reasons stated hereinabove and in view of the accusations made against the applicant, he is directed to be released on bail. Hence, the following order:

ORDER

(i) The applicant be enlarged on bail in Crime No.214 of 2019 registered with Thane Nagar police station, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;

(ii) The applicant shall inform his latest place of residence and contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer of the concerned Police Station;

(iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

9 The application is, accordingly, allowed and disposed of.

10 It is made clear that observations made hereinabove be construed as expression of opinion only for

the purpose of granting bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)