

PMB

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.267 OF 2022

SHAHROUKH HASAN PATHAN

..APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Mr. Kalam Shaikh for applicant.

Mr. N. B. Patil, APP for State.

Ms. Trupti M. Khamkar, appointed advocate.

Mr. Sachin Mhaske, PSI, Malwani Police Station present.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 21, 2022.

P.C. :

- 1.** Heard learned counsel for the applicant.
- 2.** The First Information Report No.1091 of 2021 is registered by the Malwani Police Station against the applicant for the offence punishable under Sections 376, 376(2)(N) of the Indian Penal Code, 1860 (hereafter "the IPC" for short) read with Sections 4, 8 and 12 of Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short) dated 26/07/2021. The applicant was arrested on 27/07/2021. Learned counsel for the

PRADNYA
MAKARAND
BHOALE

Digitally signed by
PRADNYA MAKARAND
BHOALE
Date: 2022.11.21
20:46:42 +0530

applicant invited my attention to the FIR dated 26/07/2021 of the victim (XYZ). Learned counsel submitted that the applicant is in custody for more than 1 year and 4 months. Learned counsel submitted that there was a love affair between the victim and the accused. According to him, it is on account of the objection raised by the families, the FIR is filed against the applicant. He submitted that there is material contradiction in the version of the informant as narrated in the FIR and the one recorded by the Doctor on 28/07/2021.

3. I find that the allegations made by the victim in the FIR are serious in nature. At the relevant time she was around 15 years of age. There are specific allegations that the victim was subjected to sexual intercourse on several occasions. Her statement is recorded under Section 164 of the Code of Criminal Procedure, 1973. Further allegations are made that in a span of two years from November 2019 till the time the FIR was filed, the applicant had taken a sum of Rs.32,500/- from the victim, at times by threatening her. It is also seen that a sum of Rs.20,000/- was recovered

from the friend (Gholap) of the applicant. It is the applicant who had asked the victim to pay this amount.

4. Taking an overall view of the matter and having regard to the provisions of the POCSO Act, in my opinion, considering the age of the minor and the seriousness of the offence, this is not a fit case to release the applicant on bail.

5. Bail Application is rejected.

(M. S. KARNIK, J.)