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

BAIL APPLICATION NO.1573/2021

SUSHIL PARVEZ ALEXZANDER ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Devidas Jadhav i/b. Mr. Dhananjay Kendre for the applicant.

Mr. S. V. Gavand, APP for State.

Mr. Drupad S. Patil a/w. Mr. Namitkumar S. Pansare for respondent no.2.

Mr. S. V. Sawant, API, Central Police Station.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 2, 2022.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail for the offence punishable under Sections 376, 377, 506 of the Indian Penal Code, 1860 and Sections 3 and 4 of the of the Protection of Children from Sexual Offences Act, 2012 vide C.R.No.I-396/2016 lodged with Central Police Station, Ulhasnagar, District-Thane.

3. The First Information Report (FIR) was lodged on

September 18, 2016 by the mother of the victim. The victim was 9 years of age. The applicant was arrested on September 18, 2016.

4. With the assistance of learned counsel for the applicant, I have perused the copy of the FIR and statement of the victim recorded under Section 161 and 164 of the Code of Criminal Procedure (hereafter 'the Cr.PC' for short). It is narrated that the victim's aunt who was residing next door was alone. The victim went to stay with her aunt. Her aunt is the wife of the real brother of the complainant (victim's mother). When they reached home, her uncle and the applicant had already reached. Sometime in the night, when the victim was sleeping next to her aunt, it is alleged that the applicant committed penetrative sexual assault. The statements of the victim under Sections 161 and 164 of the Cr.PC described the incident. The victim immediately thereafter, at about 3.30 a.m., went home and told her parents about the incident. The allegations are serious and at this stage it is not possible for me to release the applicant on bail considering the seriousness of the offence.

5. Learned counsel for the applicant submitted that the medical evidence does not support the prosecution case. I find that the statements of the victim recorded under Sections 161 and 164 of the Cr.PC as it stands cannot be disbelieved. There is no reason to falsely implicate the applicant.

6. The application is rejected. The applicant is in custody for a period almost five and half years. The trial has not yet commenced. In this view of the matter, the trial Court is requested to expedite the trial, preferably within a period of six (6) months from today. If the trial does not progress, liberty to apply.

7. The application is disposed of.

(M. S. KARNIK, J.)