

PMB

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

BAIL APPLICATION NO.2082 OF 2022

GLADWIN PRAMOD KUMAR SAMUEL ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Ms. Swarali Joglekar for applicant.

Mr. N. B. Patil, APP for State/respondent No.1.

Mr. Visshaal D. Khetre for intervenor.

Mr. Pranay Kate, API, Nayanagar Police Station is present.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 19, 2022.

P.C. :

- 1.** Heard learned counsel for the parties.
- 2.** This is an application for bail filed by the applicant- Gladwin Pramod Kumar Samuel, in connection with C.R. No.33 of 2021, registered with Nayanagar Police Station on 23/01/2021, for the offence punishable under Section 354 of the Indian Penal Code, 1860 (hereafter "the IPC" for short) and Sections 8 and 12 of Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short).

3. The applicant was arrested on 23/01/2021. The applicant is in custody for more than 1 year and 10 months. The complainant is a daughter of the applicant, who is 17 years of age. The other victim is also the daughter of the applicant, who is 16 years of age. It is alleged that on 06/01/2021, 13/01/2021, 16/01/2021 and 20/01/2021 the applicant misbehaved with his daughter and his acts were of such an obscene nature that a complaint had to be made against the applicant by his own daughter.

4. It is not in dispute that the applicant is suffering from hemiparesis dysphagia. He suffered a paralytic stroke in the year 2017. Post his arrest on 23/01/2021, the applicant was regularly admitted to the hospital. The prisoner's medical report dated 19/10/2022 has been produced on record. The report indicates that at present the applicant is haemodynamically stable. The report further states that the applicant is known case of left sided weakness (HEMIPERISIS) with slurring of speech due to stroke before admission to jail. It is indicated that at present the applicant is taking treatment at Prison Hospital, Thane. Further, the

report indicates that the applicant had difficulty with swallowing and collection of sputum. The applicant on 08/02/2021 was brought with similar complaints of excessive salivation since 1 year, difficulty in speaking since 6 years and difficulty in walking since 6 years.

5. The applicant is in custody for more than 1 year and 10 months and the trial is at the stage of framing of charge. It is pointed out by learned counsel for the complainant that the applicant's lawyer was not present on last three occasions before the trial Court.

6. The statement of the other victim under Section 164 of the Code of Criminal Procedure, 1973 has been recorded wherein it is stated that there are some disputes between her mother and the applicant and that he had suffered a paralytic stroke some years back. It is further stated that for a period of 6 years they were staying separately from the applicant and since last 2 years prior to the recording of her statement, they again started residing together. The victim then narrated the offensive act of the applicant on 06/01/2021, 13/01/2021, 16/01/2021 and 20/01/2021.

7. It is also pointed out by learned APP that there are criminal antecedents against the applicant in the nature of the criminal complaint under Section 324 of the IPC. Learned counsel for the applicant submitted that the offence was registered prior to the applicant suffering from paralytic stroke. The offence is not related to the victims. Learned counsel for the applicant submits that the applicant will not reside in Thane district.

8. In my opinion, the applicant is in custody for more than 1 year and 10 months and there is no likelihood of the trial commencing in the near future, coupled with the fact that the medical condition of the applicant, having suffered a paralytic stroke 6 years back and requires regular follow-up treatment even now, in these facts, the applicant could be released on bail by imposing some stringent conditions. Hence, the following order :

ORDER

(a) The applicant – Gladwin Pramod Kumar Samuel in connection with C.R. No.33 of 2021, registered with Nayanagar Police Station, shall be released on bail on

furnishing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

(b) The applicant shall report to the concerned Police Station once in a month on the first Monday of every month between 10.00 a.m. and 12.00 p.m. till the trial is concluded.

(c) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(e) The applicant shall not enter Thane district except for the purpose of attending the trial.

(f) The medical case papers of the applicant may be handed over by the mother of the complainant to the applicant.

9. The Bail Application is disposed of.

(M. S. KARNIK, J.)