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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4511 OF 2021

Nilchand Gaura Naik .. Applicant

Versus

The State of Maharashtra .. Respondent

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Ms.Mohammad S. Mulla for the Applicant.

Ms.Rutuja Ambekar, A.P.P. for the State/Respondent.

Ms.Ameeta Kuttikrishnan for the Respondent No.2.

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CORAM: BHARATI DANGRE, J.
DATED : 02nd AUGUST, 2022

P.C:-

1. The applicant is facing charge under Section 377 of I.P.C. alongwith Sections 4, 6, 8 and 12 of POCSO Act in Special Case No.230 of 2019. He came to be arrested on 14/03/2019. His bail application was rejected by the Special Judge, Dindoshi on 05/12/2020, which has constrained the applicant to approach this Court.

2. Heard learned counsel for the applicant, learned counsel for the intervenor and learned A.P.P. for the State.

Perusal of the charge-sheet would disclose the case of the prosecution, where two boys aged 9 and 11 years, were subjected to unnatural act and the complainant, when inquired with the said boys, stated that the present applicant, aged 21 years, had indulged with them 3 to 4 times in last two months. When asked to clarify about the the words 'objectionable act', both the minors have clarified the act of the applicant and indulgence with them, which apparently disclose an offence under Section 377 of IPC.

3. Learned counsel for the applicant would vehemently submit that the applicant himself is 21 years old and he remained incarcerated and even the medical does not support the prosecution case.

4. When the statements of the two minor children are perused, it is apparent that they have clearly implicated the present applicant and undisputedly, these form basis for charging the applicant under Section 377 of IPC with Sections 4, 6, 8 and 12 of the POCSO Act. The charges levelled against him shall be proved during the trial. *Prima facie*, the material being compiled in the charge-sheet against the applicant, he does not deserve any sympathy and his application is rejected.

5. Learned counsel Ms.Ameeta Kuttikrishnan, who was appointed to assist the Court, shall be paid her legal remuneration by the Legal Services Authority within a period of four weeks from today.

(SMT. BHARATI DANGRE, J.)