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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.504 OF 2023

AJIJ MAHEBOOB SHAIKH

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicant : Mr. Salunke Sudarshan J

APP for Respondent/State : Mr. S.B. Narwade

Advocate for Respondent No.2 : Mr. N.K. Tungar (Appointed
Through Legal Aid)

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CORAM : S.G. MEHARE, J.

DATED : APRIL 20, 2023

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the victim.
2. The applicant is seeking bail in Crime No.211 of 2022 registered with Ramtirth Police Station, District Nanded for the offence punishable under Section 376, 376(2)(f), 376(2)(n), 376(AB) of Indian Penal Code and Section 4, 6, 8 and 12 of the Protection of Children From Sexual Offences Act, 2012 ('POCSO Act' for short).
3. In this case, the victim was 8 years old baby. The applicant was the Maulavi teaching the religious lessons in mosque. It has been alleged that the applicant ask the victim to stay in mosque after other children left. When the victim was alone, he molested her and attempted to commit the forcible sex. Reading the allegations

against the applicant (not reproduced deliberately), reveals that it was a serious offence under the POCSO Act.

4. Learned counsel for the applicant would argue that no incident as such happened. The victim is not consistent about the date of the incident. She even did not know the name of the Maulavi. The allegations and the material collected by the investigating officer does not reveal the commission of the offence of rape or penetrative sexual assault. Vague allegations have been levelled against the applicant. The mother of the victim did not narrate the history of forcible sex to the medical officer. The medical evidence does not support the prosecution case. The applicant is languishing in jail since long. There are no antecedents to his discredit. Hence, he may be granted bail.

5. Learned APP and learned counsel representing the victim have vehemently opposed the application. Referring to the documents placed on record, they have submitted that *prima facie* material is available against the applicant. The victim was only 8 years old. She has no reason to lie against the Teacher/Maulavi. The applicant was a Maulavi. He committed the heinous crime. The victim has an apprehension of threats. She is from a poor family. Considering the allegations, the medical evidence, as expected by the accused, was not possible. The sole testimony of the victim is sufficient to convict the accused. The discrepancies as pointed out by the learned counsel for

the accused are not significant. Considering the gravity of the offence and age of the victim, the application may be dismissed.

6. Perused the papers placed before the Court. The allegations reveal that the applicant did heinous act with a child of 8 years old that too in a mosque. The victim appears from a poor strata. Therefore, the apprehension of threatening her appears just and proper. The offence is grave and serious. Considering the material in toto and protecting the interest of child of 8 years, the Court is of the view that releasing the applicant on bail is unsafe not only to the victim but for the other girls also, who were going for the religious education in a mosque.

7. For the above reasons, the application stands dismissed.

8. The Secretary, High Court Legal Services Sub-Committee, Aurangabad Bench do pay the legal fees to the learned counsel appointed for respondent no.2, as per schedule.

(S.G. MEHARE, J.)