

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1115 OF 2023

Shruti Anil Bhosale ...Applicant
V/s.
The State of Maharashtra ...Respondent

Mr. Kedar J. Patil a/w Ms. Gargi Joshi a/w Mr. Jitesh Mundhwa a/w
Ms. Sakshi Kadam for the Applicant.
Mr. A.A. Palkar, APP for the Respondent/State.

CORAM : N.R. BORKAR, J.
DATE : 02.05.2023

P.C. :

1. This is an application under Section 439 of Code of Criminal Procedure for bail.
2. The applicant came to be apprehended in Crime No. 552 of 2021 registered at Juna Rajwada Police Station, District Kolhapur, for the offences punishable under Sections 364-A, 384, 386, 388, 397, 327, 452 and 120-B of the Indian Penal Code (IPC) and under Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (MCOC Act).
3. I have heard the learned counsel for the applicant and the learned APP for the State.
4. The allegations against the present applicant and other co-accused are inter-alia of extortion.
5. The applicant on the date of the alleged incident which took

place on 20 November 2021, was 17 years and 8 months old. The Juvenile Justice Board under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015, had thus conducted preliminary assessment with regard to applicant's mental and physical capacity to commit the offence in question and her ability to understand the consequences of the offence and found that there is a need for the trial of the applicant as an adult and transferred the trial to the Children's Court. The Children's Court rejected the application filed by the applicant for bail.

6. This Court in ***Shubham @ Bablu Milind Suryavanshi Bab Vs The State of Maharashtra***¹, has observed:

*"15. In the aforesaid circumstances, when the Children's Court has rejected his application, without advertng to the said facts and also the statutory mandate of Section 12, is an unfortunate part. Merly, because, he is directed to be tried as an adult, he cannot be denied the benefit of Section 12. I am fortified by the earlier view taken by this Court in the case of **Sandeep Ayodhya Prasad Rajak (Bail Application No. 3838 of 2021 decided on 22/08/2022)** and also in the case of **Prasad Subhash Khade Vs. State of Maharashtra (Bail Application No. 1647 of 2020 decided on 18/03/2021)**.*

16. In any case, the J.J. Act focuses on a principle of presumption of innocence and on the principle of best interest as well as principle of repatriation and restoration, by virtue of which, the applicant, who is a juvenile, has a right to be reunited with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this Act, unless such restoration and repatriation is not in his best interest."

¹ Bail Application No. 2282 of 2022 (Order dated 21 October 2022)

7. Apart from the above, there appears to be delay in lodging the report. Considering overall facts and circumstances of the case, I am inclined to release the applicant on bail. In the result the following order is passed.

ORDER

A] Application is allowed.

B] The applicant- Shruti Anil Bhosale, be released on bail in C.R. No. 552 of 2021 registered at Juna Rajwada Police Station, District Kolhapur, for the offences punishable under Sections 364-A, 384, 386, 388, 397, 327, 452 and 120-B of the IPC and under Sections 3(1)(ii), 3(2) and 3(4) of the MCOC Act, on furnishing P.R Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount.

[N.R.BORKAR, J.]