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

BAIL APPLICATION NO.2559 OF 2023

SAJID MUJJAMIL PATHAN

..APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Adv. Sagar S. Tambe a/w Adv. Changdev Shingade i/b. Adv.
Ritesh M. Thobde for the applicant.

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

Adv. Mohammad S. Mulla for respondent No.2.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 6, 2023

P.C. :

1. Heard learned counsel for the applicant, learned APP
for the State and learned counsel for respondent No.2.

2. This is an application for bail in respect of the offence
punishable under Sections 363, 376(2)(n) and 376(2)(i) of
the Indian Penal Code (hereafter 'IPC' for short) and under
Section 4 of the Protection of Children from Sexual Offences
Act, 2012 (hereafter "POCSO Act", for short) registered on
27.03.2023 vide C.R. No.174 of 2023 with Vijapur Naka
Police Station, District Solapur.

3. The FIR was lodged on 27.03.2023 when the victim was admitted in Civil Hospital, Solapur. In the FIR it is alleged that on 25.03.2023 the minor victim delivered a girl child. Though the initial version of the victim is not against the applicant later on in the supplementary statement which was recorded on 02.04.2023 the victim stated that in the month of July 2022 she was acquainted with the present applicant-Sajid. There is a love relationship between the parties and they had consensual physical relations. The victim at the relevant time was 17 years and 4 months of age. The victim being a minor, her consent is immaterial.

4. Now an affidavit has been filed by the victim dated 30.09.2023 that she has attained majority. In the affidavit it is stated that on 25.03.2023 she has delivered a girl child. In the affidavit she stated that she was in a love relationship with the applicant and they also had episodes of consensual sex. In the affidavit it is stated that the victim is willing to marry the applicant and her parents have no objection to such a marriage. Even the parents have filed an affidavit.

5. The applicant has also filed an affidavit expressing his willingness to marry the victim and that his family has no objection to such a marriage.

6. The applicant was arrested on 19.04.2023. The victim as well as her parents were present yesterday in the Court and through their advocate submitted that whatever is stated in the affidavit filed by them is true and there is no pressure, force or coercion exerted on them. The affidavit is voluntarily.

7. The DNA report is positive. The investigation is complete and the charge-sheet has been filed. In the facts and circumstances of the present case, considering that the applicant is a young boy of 21 years of age and the victim at the relevant time was 17 years and 4 months of age, further learned counsel for the applicant states that there are no criminal antecedents reported against the applicant, I am inclined to enlarge the applicant on bail. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant-Sajid Mujjamil Pathan in connection with C.R. No.174 of 2023 registered with Vijapur Naka Police Station, District Solapur shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.

(d) The applicant shall report to the concerned police station as and when called for.

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

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

(g) The applicant shall attend the trial regularly.

8. The application is disposed of.

(M. S. KARNIK, J.)