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

BAIL APPLICATION NO.335/2022

AKRAM ABDUL HAKIM CHAUDHARY ..APPLICANT
VS.
THE STATE OF MAHARASHTRA & ANR. ..RESPONDENTS

Mr. Kuldeep Patil i/b. Ms. Saili Dhuru for the applicant.
Mr. S. V. Gavand, APP for State.
PI Sachin Ingavale, Vasai Road Railway Police Station.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 13, 2023.

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail for the offence punishable under Sections 363, 376, 376(2)(D) of the Indian Penal Code, 1860 (hereafter 'IPC' for short) read with Section 6 of the Protection of Children from Sexual Offence Act, 2012 (hereafter 'POCSO Act' for short) vide First Information Report (FIR) No.I-343/2021 registered with Vasai Road Railway Police Station.
- 3.** The applicant is 22 years of age. The date of the

incident is alleged to be June 31, 2021. The age of the victim is 17 years. Considering the provisions of the POCSO Act, the consent of the victim is not material. The victim is suffering from Mild Intellectual Disability and it is concluded by the Department of Psychiatry that she is able to describe the event as a 10 year old child. The victim lost her father.

4. The owner of the tanker on which the accused were working has stated in his statement that the victim was moving around with one Ajay (accused no.1) and the other accused including the applicant for a few days. The said owner had informed the accused that they should keep away from the victim.

5. The incident is of June 31, 2021. The FIR is registered on August 8, 2021. In the FIR, the victim has named the accused no.1-Ajay and stated that he was accompanied by four other persons who are responsible for committing the act which is punishable under the aforesaid Sections. In the statement under Section 164 of the Code of Criminal Procedure which was recorded on September 20, 2021, the victim has named the accused no.1-Ajay and Munna along

with two other persons.

6. The applicant is 22 years of age. There are criminal antecedents reported against the applicant of the year 2009 in respect of the allegations regarding theft. The applicant has been released on bail. So far as the present offence is concerned, the applicant is in custody for more than one year and four months. Even the charge has not so far been framed. It is alleged that Ajay is the one who induced the victim to accompany him.

7. Considering the nature of the accusations and the fact that the applicant is 22 years of age coupled with the fact that there is no possibility of trial concluding any time soon, the applicant can be released on bail. Though the offence alleged is serious, the applicant cannot be deprived of the facility of bail, as in any case the applicant will face the consequences if ultimately he is convicted. However, he can be enlarged on bail as he is an undertrial prisoner for more than one year and four months. Taking an overall view of the matter, the applicant is enlarged on bail. Hence the following order.

ORDER

- (a) The applicant – Akram Abdul Hakim Chaudhary in connection with FIR No.I-343/2021 registered with Vasai Road Railway 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 as and when called.
- (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 will not make any attempt to contact the victim.

8. The application is disposed of

(M. S. KARNIK, J.)