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

BAIL APPLICATION NO.217/2023

UMESH LOTTU PRAJAPATI
@ UMESH LAUTU PRAJAPATI

..APPLICANT

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

Adv. K. V. Jadhav a/w. Adv. Vishal Kolekar for the applicant.
Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 21, 2023.

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 376, 376(2)(n) of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short) registered on 31/3/2022 vide C.R. No.315/2022 with MIDC Police Station.
- 3.** At the relevant time, the victim was 17 years old and

the applicant was 27 years of age. The applicant is the maternal uncle of the victim. In the statement under Section 161 of the Code of Criminal Procedure, the victim stated that in the month of January 2022, a person named Pintu Sharma aged 22 years who was known to her, took her to the garden and had forcible sexual intercourse with her. She narrated the incident when she developed a vomiting sensation when taken to the doctor, it was revealed that the victim was two months pregnant. The Section 161 statement of the victim was recorded on 31/3/2022.

4. After about 22 days, on 22/4/2022, in the supplementary statement, the victim stated that it is the applicant who had physical relations with her against her consent. In any case, as the applicant is a minor such a consent is immaterial. The victim stated that the applicant had such relationship on two to three occasions.

5. The victim and her mother are present in the Court. Learned counsel for the complainant and the victim submitted that the victim and the complainant have no objection if the applicant is enlarged on bail as the First Information Report (FIR) was lodged due to some

misunderstanding.

6. Considering the age of the victim, who is a minor, I proceeded to consider the application for bail on the basis of the materials on record. The supplementary statement of the victim is recorded after 22 days of the lodging of the FIR. Initially the victim had specifically made accusations of rape against one Pintu Sharma, aged 22 years, who is not even made an accused in the present FIR.

7. The applicant was arrested on 22/4/2022 and is in custody for more than one year and six months with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. In my opinion, the applicant does not appear to be a flight risk. In the facts and circumstances of the present case, the applicant can be enlarged on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Umesh Lottu Prajapati @ Umesh Lautu

Prajapati in connection with C.R. No.315/2022 with MIDC Police Station, shall be released on bail on his/her furnishing P.R. Bond of Rs.25,000/- with one or more local/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 attend the Investigating Officer of MIDC police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.

(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) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter the area of Andheri (East) and Andheri (West) after being released on bail, till the trial concludes.

(h) The applicant shall attend the trial regularly.

8. The application is disposed of.

(M. S. KARNIK, J.)