

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

BAIL APPLICATION NO.224 OF 2023

Raju Ramesh Wala ...Applicant
vs.
State of Maharashtra & Anr. ...Respondents

Mr. Shailesh D. Chavan for the Applicant.
Mr. H. J. Dedhia APP for Respondent No.1- State.
Mr. Ajinkya Udane for Respondent No.2.

CORAM : S. M. MODAK, J.

DATED : 12TH JULY 2023

P. C. :

1. Heard learned Advocate for the Applicant, learned APP for the Respondent No.1-State and learned APP for Respondent No.2-first informant.

2. Even though it may be true that the Applicant has remained behind bar for more than three years and, even though it may be true that yet the trial has not started, I am not inclined to grant bail, only considering the age of victim because ultimately the Court has to visualize what would be effect on the victim, if the Applicant is released on bail.

3. FIR is lodged by father of the victim of four years of age.

The victim is taking education in school of Anganwadi. The incident took place on 20th November 2019, at about 1 pm when the father, daughter/victim and the Applicant were going on motor-cycle. The Applicant has done objectionable act of inserting his fingers in private part of the victim. She disclosed this fact to her father and also the fact, that earlier also the said act has happened.

4. The emphasis is that in the medical case papers, no injury is noticed and the incident on motor-cycle is highly improbable. Furthermore, my attention is invited to the observations in the order passed by learned Additional Sessions Judge, (para 6). The Applicant has obtained certificate that at the relevant time the victim was in Anganwadi school. Furthermore, the Applicant stood surety to the loan taken by the mother of victim and notice is issued to the Applicant for repayment of the dues. This contention can be raised at the time of trial. Considering the allegations, I am not inclined to grant the bail.

5. Considering the fact that the Applicant is behind bar for

more than three years, let the trial Court to record the evidence of victim. It is submitted that inspite of earlier summons, the first informant has not appeared. Even in future, if the first informant or victim does not appear, the Applicant will be benefited. Hence, the following order is passed :

ORDER

- (i) The Court seized of the matter is directed to record evidence of the victim as early as possible and preferably it be recorded within three months from today.
 - (ii) The Applicant is entitled to apply for bail after expiry of three months before the trial Court, The trial Court to decide the Application in case the evidence is either not recorded or even after recording of the evidence.
 - (iii) The Advocate appointed through legal aid be paid fees as per Rules.
6. Application is disposed of accordingly.

[S. M. MODAK, J.]