



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

BAIL APPLICATION NO.248 OF 2023

**KHUSBU ALIAS KHUSHI RAVISHANKAR BHATU ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ORS. ..RESPONDENTS**

Mr. Rajendra Rathod a/w Mr. Aamir Koradia and Mr. Umer Dalvi, for the Applicant.

Ms. Veera Shinde, APP for the State.

Ms. Priyanka H. Chavan, for Respondents No. 2 & 3.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 30, 2023

P.C. :

- 1.** Heard learned counsel for the applicant, learned counsel for the respondents no. 2 and 3 and learned APP for the State.
- 2.** Learned APP informed the Court that the prosecutrix, a minor victim is present and she wants to be represented through legal aid. I requested Ms. Priyanka H. Chavan to appear on behalf of the prosecutrix to assist this Court which was graciously accepted by learned counsel.
- 3.** This is an application for bail in respect of the offence punishable under sections 370(1)(4), 366(A), 372 of the Indian Penal

Code (hereafter 'IPC' for short) read with sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 and sections 17 and 18 of the Protection of Children from Sexual Offences Act, 2012 (hereafter 'the POCSO Act' for short) registered vide C.R. No.402 of 2022 with Mira Road Police Station. The First Information Report is dated 28/09/2022. The applicant was arrested on 28/09/2022.

4. It is the case that the applicant is a woman who is 23 years of age indulged in acts which constitutes the alleged offence under the aforesaid sections. At the relevant time, the age of one of the victim who is present in Court today, was 17 years and 11 months. There are in all 2 victims of which one is a major. I have gone through section 161 CrPC statement of the minor victim as well as that of the victim who is a major. From the statements it does not appear that there is any force or pressure exerted by the applicant on the victims to indulge in these acts. It is the contention that the applicant had offered money to the victims and called them at the hotel where the raid is conducted. In the section 161 statement of the minor victim, it is stated that she was called to the hotel by the applicant on the occasion of birthday of one of the applicant's friend. When the victim reached the hotel, the raid was conducted. Learned counsel for the

prosecutrix invited my attention to the whats-app chats to urge that money was offered to the prosecutrix by the applicant obviously to induce her engage in the act which is an offence under the aforesaid sections.

5. The applicant is a woman, 23 years of age. There are no criminal antecedents reported against her. At the relevant time, the victim, a minor was 17 years and 11 months of age. Prima facie, there does not appear to be any force or pressure exerted on the victims. The accusations are serious. Whether the accusations constitute offence punishable under section 370 of I.P.C. and other provisions which the applicant is charged with will be dealt with by the trial Court. The applicant will face the consequences of trial. The applicant is in custody for a period of almost 11 months. The trial will take long time to conclude. In the facts and circumstances of the present case, I am inclined to enlarge the applicant on bail. Learned APP and learned counsel for prosecutrix expressed their apprehension that the victim might feel threatened as even the applicant is a resident of Malad.

6. Learned counsel for the applicant on instructions submitted that the applicant will not reside in the western suburbs of Mumbai

till the conclusion of trial which includes Malad area till the conclusion of trial. The investigation is complete and the charge-sheet is filed. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Khusbu alias Khushi Ravishankar Bhatu in connection with C.R. No. 402 of 2022 registered with Mira Road Police Station shall be released on bail on her furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant shall attend the investigating officer of Mira Road police station once in two months commencing from September 2023 on every first Monday of the alternate month between 11.00 a.m. and 1.00 p.m.
- (d) 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.
- (e) On being released on bail, the applicant shall furnish her contact number and residential address to the Investigating

Officer and shall keep him updated, in case there is any change.

(f) The applicant shall not reside or enter in the western suburb of Mumbai which includes Malad area till the trial is over except for reporting to the investigating officer and attending the trial.

(g) The applicant shall not establish any contact with the victims.

7. The application is disposed of.

8. I express my gratitude for the able assistance rendered by the Advocate Ms. Priyanka H. Chavan representing respondents No.2 and 3 in these proceedings.

(M. S. KARNIK, J.)