

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

**BAIL APPLICATION NO.910 OF 2021
WITH
INTERIM APPLICATION NO.382 OF 2023
WITH
INTERIM APPLICATION NO.1359 OF 2023
WITH
INTERIM APPLICATION NO.1942 OF 2023
IN
BAIL APPLICATION NO.910 OF 2021**

Indrakant Badri Jha ...Applicant

Versus

The State of Maharashtra ...Respondent

...

Mr. Mukesh Mishra for the Applicant.

Ms Gayatri Takalkar, appointed Advocate for Respondent No.2.

Mr. R.M. Pethe, APP for the Respondent -State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 9th AUGUST, 2023.

P. C. :-

1. The Applicant, who is facing trial in Special Session Case No.345 of 2017 pending on the file of learned Sessions Judge, Dindoshi, seeks enlargement on bail. The said case arises from Crime No.534 of 2017 registered with Dindoshi Police Station, Mumbai, for the offences punishable under Sections 363 and 376 r/w 34 of the IPC and Sections 3 and 4 of the Protection of Children from Sexual

Offences Act, 2012.

2. Heard Mr. Mukesh Mishra, learned counsel for the Applicant, Ms Gayatri Takalkar, learned appointed Advocate for Respondent No.2 and Mr. R.M. Pethe, learned APP for the Respondent - State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by the mother of the victim. The facts narrated in the FIR vis-a-vis the statement of the victim prima facie indicate that the victim is a partially mentally disabled child. It is stated that on 15/7/2017 the victim had left the house at about 21.30 hours. She did not return home. Initially the First Informant lodged the complaint alleging that some unknown persons had kidnapped the victim girl. Supplementary statement of the First Informant came to be recorded on 19/07/2017. It is stated that the victim girl had returned home and she was in a disturbed state of mind. She informed her mother that she was sexually abused.

4. The statement of the victim also prima facie reveals that

one Autoriksha driver had taken her to one hotel at Madh Marve Beach. He had booked a room in the said hotel and took her in the said room and sexually abused her and thereafter dropped her to Ganesh Nagar Naka, Kandivali. The victim had identified the Applicant.

5. The statements of the employees of the said hotel have been recorded. These witnesses have also stated that one person had come to the hotel with a girl and booked Room No.1. These witnesses have identified the Applicant as the same person, who had come with the victim girl and booked the room in the hotel. The material on record further indicates that the Applicant herein had handed over copy of his driving license as identification proof. He had also entered the details in the register. The report of the handwriting expert prima facie reveals that handwriting in the said register tallies with the handwriting of the Applicant herein.

6. Learned counsel for the Applicant states that the mother of the victim has earlier filed complaints for similar crimes against several others and this fact was considered by this Court while allowing Bail Application No.2670 of 2018. It is true that this Court has noted that the mother of the victim had lodged several complaints against others for sexually abusing her daughter. It is however to be noted that the

Applicant therein was granted bail since there was no corroborative evidence.

7. It is pertinent to note that the victim is a partially mentally challenged girl. The FIR also indicates that even previously she was sexually abused. Hence, the mere fact that similar crime was registered against some other person would not be a ground to give clean chit to the Applicant, particularly when there is other material on record to show his involvement in the crime. Considering the gravity of the offence and the material in support thereof, the Applicant is not entitled for bail. Under the circumstances, the application is dismissed.

8. It is stated that the charge is framed. Learned APP states that the prosecution intends to examine 15 to 20 witnesses and the trial will be concluded within 10 months.

9. Considering the fact that the Applicant is in custody since long, learned Special Judge is directed to expedite the trial and in any event to conclude it within a period of 10 months. Liberty is granted to the Applicant to file fresh application, in the event the trial is not concluded within the scheduled time.

10. Interim applications stand disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)