

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

BAIL APPLICATION NO. 391 OF 2023

Yashwanti Yashwant Patil

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Fakruddin Khan a/w. Roshan Bhamne for the Applicant.

Mr. Hrishikesh Sopan Shinde, Advocate appointed for Respondent No.2.

Mr. S.V.Gavand, APP for the State.

PSI Sunil Sonawane (Pairavi) from Charkop Police Station.

CORAM : ANUJA PRABHUDESSAI, J.

DATED : 10th JULY, 2023.

P.C.

1. This is an application under Section 439 Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Special Case No. 541 of 2022, pending on the file of the learned Special Judge (POCSO), Borivali Division, Dindoshi, for offences 4 and 8 of Protection of Children from Sexual Offences Act, 2012.

2. Heard learned Counsel for the Applicant and learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsels for the respective

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parties.

3. The aforesaid crime was registered pursuant to the first information report lodged by the mother of the victim, who is two and half years old girl child. The facts narrated in the FIR prima facie reveal that the victim used to go to a nursery school wherein the Applicant was working as a care taker. The first informant has stated that on 14.9.2022, her daughter stated “Mavshi poking”.

4. On 17.9.2022, at about 11.30 when she went to bring her daughter from the school, she was informed that her daughter was having loose motions. She claims that when she cleaned her daughter and checked her private parts, she found that there were blood stains on her underwear and that the vagina was red in colour. She took her to a private hospital. She claims that she was informed by the doctor that the said injury was caused due to insertion of finger. The medical report of the private hospital does not prima facie support the contention of the first informant. On the contrary, this report clearly states that there were no external injuries on the vagina or genitals.

5. The victim was also examined in a Government Hospital. The medical report from the said hospital also does not prima facie

indicate that the victim had any injuries on her genitals or that her genitals were bruised or red. The victim had only complained of painful urination. The CCTV footage of the School also does not indicate that the Applicant was involved in sexually abusing the victim.

6. The applicant is in custody since 20.09.2022. Considering the large pendency, there is no possibility of the trial being concluded in immediate future. Considering the above facts and circumstances, this is a fit case to exercise discretion under Section 439 of Cr.P.C. Hence the application is allowed on the following terms and conditions:-

(i) The Applicant who is facing trial in Special Case No. 541 of 2022, pending on the file of the learned Special Judge (POCSO), Borivali Division, Dindoshi, is ordered to be released on furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two solvent sureties in the like amount;

(ii) The Applicant shall report to the Charkop Police Station between 11.00 a.m. to 12.00 p.m., once in two months, on the first

Monday of every two months;

(iii) The Applicant shall not interfere with the complainant or the other witnesses, or tamper with the evidence in any manner;

(iv) The Applicant shall keep the Investigating Officer informed of his permanent as well as temporary address, if any, and his contact details, and/or change of residence or mobile details from time to time.

. Application stands disposed of.

(ANUJA PRABHUDESSAI, J.)