

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

BAIL APPLICATION NO.732/2022

VISHNU MOHAN BARKHAMBE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA & ANR. ..RESPONDENTS

Mr. Ramdas P. Hake-Patil for the applicant.
Ms. P. N. Dabholkar, APP for State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 16, 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 377, 506 of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 5(m), 6, 9(m) and 10 of the Protection of Children from Sexual Offences Act, 2012 registered vide First Information Report (FIR) No.I-62/2020 with the Rabale Police Station.

3. The incident is dated February 8, 2020. The FIR is registered on February 9, 2020. The victim is a boy, aged 12 years. The applicant was arrested on February 9, 2020.

The applicant is in custody for more than 2 years and 11 months. The investigation is complete. The charge-sheet has been filed. Even the charge has not so far been framed by the trial Court. The trial will take a long time to conclude.

4. *Prima facie*, having regard to the nature of the accusations, Section 377 of the IPC does not seem to be attracted. In any case as the applicant is in custody for more than 2 years and 11 months, the applicant can be enlarged on bail. There are no criminal antecedents reported against the applicant.

5. Learned APP opposed the application on merits and also submitted that having regard to the seriousness of the allegations, the applicant can be a potential threat to the victim.

6. To allay this apprehension, learned counsel for the applicant submitted that till the trial is over, the applicant is willing to reside outside the Thane District. Statement is accepted.

7. No doubt, the offence alleged is serious, however, considering the period of long incarceration, the applicant

cannot be deprived of the facility of bail, as in any case the applicant will face the consequences if ultimately he is convicted. However, he can be enlarged on bail as he is an undertrial prisoner for more than 2 years and 11 months. Taking an overall view of the matter, the applicant is enlarged on bail. Hence the following order.

ORDER

- (a) The application is allowed.
- (b) The applicant-Vishnu Mohan Barkhamde in connection with (FIR) No.I-62/2020 with Rabale Police Station, shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant shall report to the Investigating Officer of the concerned police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (d) The applicant shall not enter the area of the Thane District except for the purpose of attending the trial and reporting to the Investigating Officer.
- (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) The trial Court is requested to record the statement of the child witness within a period of one month from the date when this order is produced before the trial Court.

(h) Learned counsel for the applicant undertakes to produce the copy of this order before the trial Court within a period of one week from the date of its uploading.

8. The application is disposed of.

(M. S. KARNIK, J.)