



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.631 OF 2023**

PRAKASH MITHU MOURYA

..APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

Ms. Anjali Patil for the applicant.

Ms. Keral Mehta for respondent No.2.

Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 24, 2023.

P.C. :

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for respondent No.2.

2. This is an application for bail in respect of the offence punishable under Sections 376, 376(3), 376-DA, 376(2)(n), 377, 354, 354-A(3) read with 34 of the Indian Penal Code (hereafter 'IPC' for short) and under Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereafter 'POCSO' for short) registered vide C.R. No293 of 2022 dated 09.05.2022 with Nehru Nagar Police Station.

3. The applicant is the accused no.4. There are in all four accused. The applicant was arrested on 09.05.2022. The FIR is registered on 09.05.2022. The age of the victim is 12 years and 8 months. The victim's mother used to purchase raw materials (leather) for shoes from the accused – Ashok Singadiya. The victim in her statement has stated that for past five months the main accused-Ashok and others committed the act which is an offence under the aforesaid sections.

4. I have perused the statements recorded under Sections 161 and 164 of the Code of Criminal Procedure of the victim. I have also perused the statement of the victim's mother. The victim in her Section 161 statement does not specifically say that the applicant has committed any act of sexual assault. The role assigned to the applicant is that he closed the door when the accused No.1 assaulted the victim. In Section 164 statement the victim stated that the present applicant did all that the main accused-Ashok had done with her.

5. Learned counsel for the applicant submitted that the

victim's mother used to purchase the raw materials from the accused Ashok and therefore in view of some financial dealings there was some dispute as a result of which the complaint came to be instituted.

6. In my opinion, so far as the present applicant is concerned, he can be enlarged on bail having regard to the nature of the allegations levelled against him which prima facie appear to be vague. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant is in custody for more than 15 months with no possibility of the trial concluding. The applicant therefore can be released on bail by imposing stringent conditions. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant-Prakash Mithu Mourya in connection with C.R. No.293 of 2022 registered with Nehru Nagar 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 attend the Investigating Officer of the Nehru Nagar 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 reside or enter within the area of Nehru Nagar Police Station till the trial is over except for the purpose of attending the trial and the Investigating Officer.

(e) The applicant shall not contact the complainant, witnesses or any person concerned with the case.

(f) 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.

(g) 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.

7. The application is disposed of.

8. I express my gratitude for the able assistance rendered by the advocate - Ms. Keral Mehta representing the respondent No.2.

9. The Legal Services Authority may regularize the appointment of Ms. Keral Mehta.

(M. S. KARNIK, J.)