



Diksha Rane

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

BAIL APPLICATION NO.699/2023

NAJIR AMIRUDDIN SHAIKH

..APPLICANT

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENT

Adv. Mohammad S. Mulla a/w. Adv. Zahir Mulla for the applicant.

Mr. N. B. Patil, APP for the State.

Ms. Ilsa Shaikh for the respondent no.2.

API K. K. Tambe, Mumbra Police Station.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 20, 2023.

P.C. :

- 1.** Heard learned counsel for the applicant, learned APP for the State and learned counsel for the respondent no.2.
- 2.** This is an application for bail in respect of the offence punishable under Sections 376 and 506 of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereafter 'the POCSO Act' for short) registered on 21/12/2017 vide C.R. No.549/2017 with Mumbra Police Station, Thane.
- 3.** The victim at the relevant time was 13 years of age.

The applicant was 48 years of age. The victim and the applicant were residents of the same vicinity. On the pretext of offering sweets, the aforesaid offence was committed by the applicant as per the prosecution.

4. Learned APP as well as learned counsel for the respondent no.2-victim appointed by this Court opposed the application.

5. Learned counsel for the respondent no.2-victim submitted that the relatives of the applicant are pressurizing the complainant to withdraw the case.

6. I have perused the statement under Section 161 of the Code of the Criminal Procedure (hereafter 'Cr.P.C.' for short) of the victim recorded on 4/1/2018. The statement under Section 164 of the Cr.P.C. of the victim was also recorded on 8/1/2018. In the statement under Section 164 of the Cr.P.C. the accusations, *prima facie* do not appear to attract the offence under Section 4 of the POCSO Act and Section 376 of the IPC. There is variance in the Section 161 and Section 164 statement of the victim. The observations are limited to considering the bail application and shall not influence the trial Court.

7. The applicant was arrested on 21/12/2017 and now is in custody for more than five years and twelve months. The charge has been framed. The trial is likely to take a long time to conclude. In the facts and circumstances of the present case, the applicant can be enlarged on bail by imposing stringent conditions to allay the apprehension expressed by learned counsel for the respondent no.2. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Najir Amiruddin Shaikh in connection with C.R. No.549/2017 with Mumbra Police Station, Thane, 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 is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- (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 his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter the jurisdiction of the Mumbra police station, Shil Daighar police station and Manpada Police Station after being released on bail, till the trial concludes.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicant shall surrender his passport, if any, to the investigating officer.

(i) It is made clear that any attempt on the part of the applicant to contact the victim or her family members will entail the consequence of the prosecution or the victim or her family members to apply for the cancellation of bail.

8. The application is disposed of.

(M. S. KARNIK, J.)