



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

BAIL APPLICATION NO.701 OF 2023

EKNATH DATTARAM CHALKE

..APPLICANT

VS

THE STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

Adv. Tabish Mooman a/w Adv. Krishna Sutar for the applicant.

Mr. P. H. Gaikwad, APP for the State.

Adv. Omneel A. Jadhav for respondent No.2.

PSI Durgesh More, Wadala Police Station.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 23, 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 Section 376 of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 4, 6, 8 and 12 of Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short) registered vide C.R. No.37 of 2018 with Wadala Police Station.

3. Learned APP and learned counsel for respondent No.2 opposed the application.

4. The applicant was arrested on 15.02.2019. The applicant is the real brother of the victim. The victim at the relevant time was around 16 years of age whereas the applicant was 23 years of age. In the FIR dated 26.02.2018 filed by the complainant-aunt of the victim it is stated that it is the applicant who committed an act which is an offence punishable under the aforesaid sections. In the supplementary statement that is recorded on 23.03.2021 the victim stated that one Mayuresh who was her neighbour had also committed the act which was an offence under the aforesaid sections. The DNA report indicates that Mayuresh was a biological parent of left fetal femur bone. The victim in the supplementary statement did not absolve the applicant but says that Mayuresh also committed the act. I am informed that Mayuresh has been released on bail by the Sessions Court by an order dated 29.07.2021.

5. The applicant and the victim were orphans living at the mercy of some acquaintances. The applicant is now in custody for more than 4 and ½ years. The charge has been framed but the trial is likely to take long time to conclude.

There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk.

6. The apprehension that the applicant may threaten the victim can be taken care of by ensuring that the applicant does not contact the victim. The victim is in shelter home at Vasai. The applicant is therefore enlarged on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Eknath Dattaram Chalke in connection with C.R. No.37 of 2018 registered with Wadala Police Station, shall be released on bail on his furnishing P.R. Bond of Rs.15,000/- with one or more sureties in the like amount.
- (c) The applicant shall report to the Investigating Officer of the Wadala 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 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) The applicant shall not to contact with the victim.

(g) The applicant shall not enter the area of Vasai, district Palghar till the conclusion of the trial.

7. The application is disposed of.

(M. S. KARNIK, J.)