



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

BAIL APPLICATION NO. 886 OF 2023

AJAB @ AZAR SALIM SIDDIKI ..APPLICANT
VS.
STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Mr. Sachin Chandan, for the applicant.
Mr. A.A. Palkar, APP for the State.
Ms.Priyanka H. Chavan, for Respondent No.2.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 27, 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 363, 366, 376(2)(3), 323, 506 of the Indian Penal Code, 1860 and under sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO') and under sections 3(1) (w)(i), 3(1)(w)(ii), 3(2)(Va) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 registered on 05/02/2022 vide C.R. No. I-36 of 2022 with Shivaji Nagar Police

Station, Ambernath, Thane city. The applicant was arrested on 06/02/2022.

3. The applicant at the relevant time had completed 18 years of age. So far as the victim is concerned, her date of birth indicates that at the time of incident, she was 17 years and 7 months of age, whereas as per the school leaving certificate, her age at the time of incident was 18 years and 7 months. I proceed on the footing that the victim was a minor of 17 years and 7 months age on the date of the incident. The applicant and the victim were working in one Company where they developed friendship. From the reading of the complaint, prima facie, it appears that the relationship between the applicant and the victim was consensual in nature. It is alleged by the victim that the applicant had forcible sexual intercourse with her. The statement of the victim was recorded almost 1 month after the complaint was registered by her mother- complainant.

4. Learned counsel for the applicant submitted on instructions that the applicant is willing to reside out of Thane district and will not establish any contact with the victim.

5. Learned APP as well as learned counsel for the complainant submitted that the victim and the complainant are being threatened

even while the applicant is in custody through one of the friend of the applicant and that even the applicant had sent a letter that the matter be compromised.

6. In the facts and circumstances of the present case, since the investigation is complete, charge-sheet has been filed, looking at the age of the applicant and the fact that he is in custody for more than 1 year and 7 months with no possibility of trial concluding any time soon, I am inclined to enlarge the applicant on bail by imposing stringent conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Ajab @ Azar Salim Siddiki in connection with C.R. No. I-36 of 2022 registered with Shivaji Nagar Police Station, Thane District 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 except for the purpose of attending the trial shall not enter area of Thane district till the trial concludes.
- (d) The trial Court is requested to record the evidence of the child witness in terms of the mandate of section 35(1) of the

POCSO Act expeditiously.

(e) The applicant shall report to the Police Station closest to his place of residence while residing outside Thane district once in a month on every first Saturday of the month between 11.00 a.m. and 1.00 p.m.

(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 trial Court as well as the investigating office of the Police Station to which he will be reporting and shall keep him updated, in case there is any change.

(g) If there is any attempt on the part of the applicant or any of his acquaintance or relatives to contact the complainant or the victim or threaten them, the same will be viewed seriously which may lead to the consequence of cancellation of bail .

7. The application is disposed of.

(M. S. KARNIK, J.)