

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

BAIL APPLICATION NO.1053 OF 2023

Milind Harishchandra Kamble

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

...

Mr. Gaurav Parkar for the Applicant.

Mr. R.M. Pethe, APP for the Respondent -State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 9th AUGUST, 2023.

P. C. :-

1. The Applicant seeks bail in Special (POCSO) Case No.154 of 2018 pending on the file of the learned Sessions Judge, Mumbai. The said case arises from C.R. No.21 of 2018 registered with Mulund Police Station, Mumbai, for the offences punishable under Sections 342, 354, 354-A, 376(2)(i)(n), 506(2), and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the Applicant states that there is no prima facie material to show the involvement of the Applicant and the medical evidence does not corroborate the statement of the victim.

The records prima facie indicate that the Applicant herein is the

neighbour of the victim. Mother of the victim had lodged the FIR alleging that her daughter, who was 12 years of age, complained of pain in her private parts. She had also noticed the scratch marks on her cheeks. The victim had informed her that on 11/01/2018 while she was playing, the Applicant herein had taken her inside his house and committed sexual intercourse. The Applicant once again on 15/01/2018 committed penetrative sexual intercourse on the victim. Based on the information given by the victim, the FIR came to be lodged. Statement of the victim was recorded and she was referred to medical examination. Upon completion of the medical examination, charge-sheet was filed against the Applicant as stated above.

3. Previous bail application (Bail Application No.1355 of 2019) was dismissed by this Court (Coram : Sandeep K. Shinde, J.) on 02/12/2019 with observations that the allegations of sexual assault by the Applicant, aged 42 years, on the child is corroborated by the medical reports. It was observed that there is prima facie evidence to prove the complicity of the Applicant in the subject crime.

4. In the light of the said observations, learned counsel for the Applicant cannot now heard be to say that the medical evidence

does not corroborate the evidence of the victim and that there is no prima facie material to show the involvement of the Applicant in commission of the aforesaid offence.

5. Learned counsel for the Applicant raises a plea of the delay in the trial. Considering the gravity of the offence, I am not inclined to entertain this application at this stage only on the ground of delay, particularly considering the fact that the trial has already commenced and that three witnesses have already been examined and the evidence of the victim is being recorded.

6. Hence, the application is dismissed. Learned APP states that the prosecution shall examine 14 other witnesses. Since the Applicant is in custody since long, the Trial Court is directed to expedite the trial and to conclude the trial within a period of six months, if necessary, by recording the evidence on day to day basis.

(SMT. ANUJA PRABHUDESSAI, J.)