

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

BAIL APPLICATION NO. 1314 OF 2022

Md. Akhlaq Gore Shaikh ..Applicant
VS.
The State of Maharashtra ..Respondent

Adv. Tanveer J. Farooqui for the Applicant.

Mr. S. V. Gavand, APP for the State.

Ms. Supriya Kak for the Complainant.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 7, 2023

P.C. :

- 1.** Heard learned counsel for the parties and learned APP for the State.
- 2.** This is an application for bail by the applicant- Md. Akhlaq Gore Shaikh, in connection with C.R. No.221 of 2021 dated 15/04/2021, registered with Kurar Police Station, under sections 376 and 506(2) of the Indian Penal Code, 1860 and sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.
- 3.** At the relevant time, the age of the victim was 17 years and 10 months. It is alleged that the applicant committed forcible sexual intercourse with the victim on

13/11/2020. The statement of the victim reveals that she had gone to the house of the applicant along with the applicant's sister. When the victim and the applicant's sister were about to leave the house, the applicant pulled the victim inside and committed the act on the person of the victim which is an offence punishable under the aforesaid sections. It is only on 14/04/2021 when the victim had been to the doctor that it was revealed that she was pregnant. It is then the victim revealed the commission of the act by the applicant.

4. There is a delay in registering First Information Report. The applicant at the relevant time was 21 years of age. *Prima facie*, I found some substance from the submission of the learned counsel for the applicant that the consensual physical relationship between the applicant and the victim cannot be ruled out. No doubt, the victim being a minor her consent is immaterial, but it needs to be noted that she was 17 years and 10 months at the relevant time. The charge-sheet has been filed and the investigation is complete. There are no criminal antecedents reported against the applicant. The applicant will face the consequences post-

trial if ultimately he is convicted. Taking an overall view of the matter and the nature of the accusations, in my opinion, the applicant who is in custody from 16/04/2021 for a period of more than 1 year and 9 months, can be enlarged on bail as the trial is likely to take a long time to conclude. Hence, the following order.

ORDER

(a) Applicant- Md. Akhlaq Gore Shaikh, in connection with C.R. No.221 of 2021, registered with Kurar 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;

(b) 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;

(c) The applicant shall report to the concerned police station once in two months i.e. on first Monday of every alternate month, between 11.00 a.m. and 1.00 p.m.;

(d) The applicant shall not enter the area of the where the victim is residing and shall not make any contact with the victim;

(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.

5. The application is disposed of.

6. I express my gratitude for the able assistance rendered by the advocate - Ms. Supriya Kak representing the complainant.

(M. S. KARNIK, J.)