



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

BAIL APPLICATION NO. 1030 OF 2023

AKBAR ALI ABDUL RAUF

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Ashley Casher, for the Applicant (through legal aid).

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

PSI- Shivaji Chakane, Dahisar police station present.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 13, 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 376, 328, 500, 504, 506, 323 of the Indian Penal Code, 1860 and under sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short) registered on 28/07/2018 vide C.R.No. 501 of 2018 with Dahisar police station. The applicant was arrested on 28/07/2028.

3. I have gone through the copy of the charge-sheet. Learned counsel for the applicant appointed through legal

aid tried his best to persuade this Court that considering that the applicant is in custody since 2018, the applicant may be enlarged on bail as trial is likely to take a long time to conclude. It is further submitted that the possibility of relations between the applicant and the victim being consensual cannot be ruled out.

4. The victim at the relevant time was 17 years of age whereas the applicant was 32 years of age. The applicant circulated obscene photographs of the victim on what's-app to several persons. Considering the nature of the accusations, I am not inclined to enlarge the applicant on bail at this juncture looking at the gravity of the accusations. In my opinion, in the facts and circumstances of the present case, it would be appropriate in the first instance if the evidence of the child witness is recorded expeditiously by the trial Court. Considering the length of incarceration of the applicant, the trial Court is requested to record the evidence of the child witness expeditiously in terms of mandate of section 35(1) of the POCSO, preferably within a period of 6 months from today.

5. Liberty to the applicant to make a fresh application for

bail after the evidence of the child witness is recorded or after 6 months whichever is earlier.

6. The application for the present is rejected.

7. I appreciate the valuable assistance rendered by Mr. Ashley Casher, the learned Advocate, who appeared on behalf of applicant through legal aid in this proceeding.

(M. S. KARNIK, J.)