



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

BAIL APPLICATION NO.1167 OF 2023

AATIK ARIFBHAI MEMON @ MOHSIN ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Mr. Shambhu M. Jha, for the Applicant.
Ms. Meena Bhalerao a/w Mr. Sandeep Dube, for Intervener.
Mr. N. B. Patil, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 30, 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, 376(2)(f), 376(2)(n), 376-4(3) of the Indian Penal Code ('IPC', for short) and under sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO', for short) registered vide C.R. No.1184 of 2022 with Virar Police Station. The First Information Report is dated 17/12/2022. The applicant was arrested on 17/12/2022.
- 3.** The victim is personally present in the Court through her

lawyer. Learned counsel on behalf of the respondent no. 2 submitted that the victim does not want to pursue the case further and in any case, she has no objection if the applicant is enlarged on bail as the complaint came to be filed because of some misunderstanding. The victim at the relevant time was 15 years and 9 months of age. Learned counsel for the applicant invited my attention to another FIR lodged in the year 2021 under section 363, 376(n), 506 of IPC and under sections 4, 8 and 12 of POCSO by the victim against some other accused. The victim is the sister of the applicant's wife. The victim's sister in her statement has stated that the victim was scolded on some occasions as she was suspected to having an affair with somebody. Learned counsel for the applicant submitted that possibility of false implication cannot be ruled out.

4. Learned APP and learned counsel for the intervener-victim for the opposes the application for bail.

5. The applicant is in custody since December 2022 i.e. for a period of more than 8 months with no possibility of trial concluding any time soon. I have asked learned APP to interact with the victim who says that there is no force or pressure on her and her stand is voluntary and insists that the applicant may be enlarged on bail. In

the facts and circumstances of the case, the applicant can be enlarged on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Aatik Arifbhai Memon @ Mohsin in connection with C.R. No.1184 of 2022 registered with Virar 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 is permitted to furnish cash bail surety in the sum of Rs. 15,000/- for a period of 4 weeks in lieu of surety.
- (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.
- (e) The applicant shall not tamper with evidence.
- (f) 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.

6. The application is disposed of.

(M. S. KARNIK, J.)