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

**BAIL APPLICATION NO.1524 OF 2022
WITH
INTERIM APPLICATION NO.4217 OF 2022**

Abdul Kayum Mohammad Yunus Khan ..Applicant

VS.

1. The State of Maharashtra

2. Ms.XXX

..Respondents

Ms. Mallika Sharma i/b Ms.Anjali Patil, for the Applicant.

Ms. Lakshmi Vaidyanathan i/b Mr. Afsar Ansari, for Intervener.

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

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 16, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP.

2. This is an application for bail in respect of C.R. No. 1002 of 2021 dated 14/12/2021 registered with Shivaji Nagar Police Station for offence punishable under sections 376, 376(2)(F), 376(2)(N), 506 of the Indian Penal Code, 1860 and sections 4, 6, 8, 10 and 12 of the Protection of

Children from Sexual Offences Act, 2012.

3. At the relevant time, the victim was 17 and 1/2 years of age. The FIR came to be registered on 14/12/2021. The applicant was arrested on 14/12/2021 and now is in custody for more than 1 year and 1 month. The victim as of today is 18 years of age. The applicant is the father of the victim. There are serious allegations made by the victim as recorded in the statement under sections 161 and 164 of the Code of Criminal Procedure against the applicant which constitutes the alleged offence under the aforesaid sections. There is also a video footage on record. The FSL report has not so far been received. Considering the allegations made, in the normal course, I may not have been inclined to grant bail at this juncture. There is however an affidavit dated 24/11/2022 filed by the victim who is now major stating that at the behest of one social worker, the victim was influenced to register the present offence. It is further stated that the family members filed a missing report on 27/05/2021 to Shivaji Nagar Police Station as the victim had gone missing. It is also stated

that the applicant had, before she went missing, shouted at her and beaten her and asked her not to talk to her boyfriend and concentrate on her studies. This is the reason why she left the house. She was caught with her boyfriend which was not appreciated by the applicant. The victim stated that no offence alleged in the FIR has taken place and she has no objection if the applicant is granted bail by this Court. The victim is personally present in the Court. The victim is identified by the advocate representing her. Learned counsel representing the victim submits that the victim insisted that no offence has taken place and the applicant be released on bail. Learned counsel for the victim submits that this insistence on her part is voluntary and on her own free will. Whether the applicant is guilty or not is the subject matter of trial. He will face the consequences.

4. Taking on overall view of the matter and the fact that the applicant is in custody for more than 1 year and 1 month with possibility of trial concluding any time soon appears remote, I am inclined to release the applicant on

bail. Hence, the following order.

ORDER

(a) The application is allowed.

(b) The applicant – Abdul Kayum Mohammad Yunus Khan in connection with C.R. No.1002 of 2021 dated 14/12/2021 registered with Shivaji Nagar Police Station shall be released on bail on his furnishing P.R. bond in the sum of Rs.15,000/- with one or more sureties in the like amount.

(c)The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant should not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer of the concerned Police Station and shall keep him updated, if there is any change.

(f) The applicant shall report to the Investigating Officer as and when called.

5. The application is disposed of. The interim application also stands disposed of.

(M. S. KARNIK, J.)