



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

BAIL APPLICATION NO.1451 OF 2023

DATTATRAY ASHOK BHINGARDIVE ..APPLICANT

VS.

THE STATE OF MAHARASHTRA & ANR. ..RESPONDENTS

Adv. Ritesh M. Thobde a/w. Adv. Sagar S. Tambe, Adv.
Changdev Shingode for the applicant.

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

Adv. Priyanka H. Chavan for the respondent no.2.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 28, 2023.

P.C. :

1. Heard learned counsel for the applicant, learned APP
for the State and learned counsel for the respondent no.2.

2. This is an application for bail in respect of the offence
punishable under Sections 395, 363, 342, 352, 354, 354(A),
323, 504, 506 of the Indian Penal Code (hereafter 'IPC' for
short) read with Sections 6, 8, 10, 12 of the Protection of
Children from Sexual Offences Act, 2012 (hereafter "POCSO
Act", for short) registered vide First Information Report (FIR)
No.221/2022 with Khadki Police Station, District - Pune.

3. The date of the incident is between 15/3/2022 and

16/3/2022. The FIR is registered after a delay of five months. It is submitted that the delay is not explained. The complainant in her statements under Sections 161 and 164 of the Code of Criminal Procedure has stated that there are six accused in all who committed the act which is an offence punishable under the aforesaid sections. The applicant is the accused no.3. Rest of the accused have been enlarged on bail. The applicant was arrested on 13/9/2022.

4. Learned counsel for the respondent no.2 appointed by this Court, pointed out that she has been instructed by the respondent no.2 not to oppose the application for bail.

5. Nonetheless I have gone through the accusations made by the complainant and the victim. The respondent no.2 is the victim's mother. The respondent no.2-complainant is the sister-in-law of the accused no.2. Rest of the accused are related to the accused no.2. The present applicant is the brother of the accused no.2. It appears that the niece of the applicant eloped with the nephew of the respondent no.2. The niece of the applicant was 16 years of age. This resulted in confrontation of family members of the accused with that of the respondent no.2. It is then alleged

by the respondent no.2 that all the accused, which include the family members of the applicant committed act which is an offence punishable under aforesaid sections. Now the respondent no.2 has no objection to the applicant's release on bail.

6. Considering the nature of the accusations and overall facts and circumstances of the present case, in my opinion, though the provisions of the POCSO are invoked, the applicant can be enlarged on bail. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Dattatray Ashok Bhingardive in connection with 221/2022 with Khadki Police Station, District - Pune, shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) 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.

(d) The applicant not to pressurize the complainant or the victim in any manner or establish contact with them.

(e) In case it is found that the applicant is pressurizing the complainant or the victim, the same shall be viewed seriously and shall be ground for the prosecution and the respondent no.2 to apply for cancellation of bail.

(f) The applicant shall attend trial regularly.

7. The application is disposed of.

8. I express my gratitude for the able assistance rendered by the learned counsel Ms. Priyanka H. Chavan representing the complainant. The Legal Services Authority may regularize the appointment of learned counsel Ms. Priyanka H. Chavan.

(M. S. KARNIK, J.)