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

BAIL APPLICATION NO.2104 OF 2022

Vijay Parmesh Giri ..Applicant
VS.
The State of Maharashtra and anr. ..Respondents

Ms. Mallika Sharma h/f Ms. Anjali Patil for the Applicant.
Ms. A. A. Takalkar, APP for the State.
Mr.Omneel A. Jadhav, for Respondent No.2.
PSI- Mr.Sonawane Prakash, Pant Nagar Police Station is present.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 21, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP.
- 2.** As the earlier advocate representing the complainant is indisposed due to some medical reasons, I have requested Mr.Jadhav to appear on behalf of complainant and I had appointed Mr.Jadhav to represent the complainant. After going through the papers, matter was taken up for hearing.
- 3.** This is an application for bail in respect of C.R.No. 189

of 2021 dated 22/04/2021 registered with Pant Nagar Police Station for the offence punishable under sections 376, 354, 506(2) of the Indian Penal Code, 1860 and sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short).

4. At the relevant time, the victim was 15 years of age. It is alleged that on the pretext of returning sugar which the applicant's sister-in-law had borrowed from the complainant's mother, the complainant visited the applicant's house where the applicant had forcible physical relationship with the victim. The applicant is 24 years of age and not married. In the medical history, the complainant has stated that she knows the applicant for more than a year and they are good friends. The applicant's family is residing on the ground floor whereas the complainant and her aunt are residing on the first floor. Learned counsel for the applicant submits that the applicant and the victim were having an affair. Having regard to the provisions of the POCSO, the consent of the applicant is immaterial. It is pertinent to note that the applicant was

arrested on 22/04/2021 and is in custody for more than 1 year and 10 months. There is no possibility of trial concluding any time soon. In view of section 35 of the POCSO, it is necessary to record the statement of the child witness within a period of 1 month from the date when this order is produced on record before the trial Court.

5. Taking an overall view of the matter, instead of continuing the incarceration of the applicant, the applicant can be released on bail by imposing some stringent conditions. There are no criminal antecedents reported against the applicant. Moreover, there are medical reports produced on record which demonstrate that the applicant is suffering from spinal tubercular infective disease. The investigation is complete. The charge-sheet has been filed. Hence, the following order.

ORDER

(a) The application is allowed.

(b) The applicant – Vijay Parmesh Giri in connection with C.R. No.189 of 2021 dated 22/04/2021 registered with Pant Nagar Police Station shall be released on bail

on furnishing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant shall not to enter the area of Pant Nagar Police Station till the conclusion of trial except for the purpose of reporting the investigating officer once in two month i.e. on first Monday of month between 11.00 a.m. and 1.00 p.m.

(d) 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.

5. The application is disposed of.

6. I appreciate the assistance rendered by Mr. Jadhav, the learned Advocate, who appeared on behalf of the complainant.

(M. S. KARNIK, J.)