

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

BAIL APPLICATION NO. 1955 OF 2022

Mr. Rushikesh G. Prabhudesai ..Applicant
VS.
1. The State of Maharashtra
2. Mrs. Shariva W/o Rushikesh Prabhudesai..Respondent

Mr. M.K. Kocharekar a/w Mr. Shirish Sawant, Tanvi Sawant
i/b Rajeev Sawant & Associates, for the Applicant.
Ms. A. A. Takalkar, APP for the State.
Ms. Suvarna Avhad Vart a/w Mr. Prakash Salsingikar, for
Complainant.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 12, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP.
2. This is an application for bail filed by the father of the victim in respect of C.R.No. 20 of 2022 dated 10/01/2022 registered with Dahisar Police Station for the offence punishable under sections 354, 354A of the Indian Penal Code, 1860 and sections 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 (hereafter 'the POCSO' for short).

3. The mother of the victim has filed FIR dated 10/01/2022 which is in respect of the incident that happened sometime in November 2021. In November 2021, the applicant while taking the victim (daughter) in his car, is alleged to have committed the offence which is punishable under the aforesaid sections. There are matrimonial disputes between the applicant and complainant. The applicant is staying separately since July 2021.

4. Learned counsel for the complainant invited my attention to the medical evidence on record. The applicant was arrested on 10/01/2022. He is in custody for more than one year. The complainant is present in the Court. Learned counsel for the complainant, apart from opposing this application for bail on merits, submitted that the complainant fears tampering at the instance of the applicant as he is residing in close proximity as that of the victim. Learned counsel for the applicant on instructions submitted that during the pendency of the trial, he will stay out of the area of the Borivali East and West. It is further assured

that no attempt would be made on the part of the applicant to contact the victim or the complainant. Considering that the investigation is complete and charge-sheet is filed, having regard to the nature of the allegations and the relations between the parties, the applicant can be released on bail subject to certain conditions. Hence, the following order.

ORDER

- (a) The application is allowed.
- (b) The applicant – Mr. Rushikesh G. Prabhudesai in connection with C.R. No. 20 of 2022 dated 10/01/2022 registered with Dahisar 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 not to enter the area of Borivali East & West till the trial is over and shall not make any attempt to contact the complainant or the victim.
- (d) The trial Court is requested to examine the child witness within 1 month from the date when this order is produced before the trial Court.
- (e) In the peculiar facts of the case, the trial needs to be expedited. The trial Court is requested to expedite

the trial and in any case conclude the trial within a period of 9 months from the date of placing this order on record before it.

(f) It is made clear that if the applicant or any of his family members make any attempt to tamper with the evidence or threaten the witness, the complainant may apply for cancellation of the bail.

(g) 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.

(h) 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

(i) The applicant shall attend the trial regularly.

5. The application is disposed of.

(M. S. KARNIK, J.)