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

CRIMINAL BAIL APPLICATION NO.1831 OF 2023

PRAKASH GOVIND POL ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Adv. Ankita Nishad i/b. Adv. Vrushali Maindad for the Applicant.
Adv. Aashish Satpute for Respondent No.2.
Ms. Veera Shinde, APP for the State.
API Chaskar, Khandeshwar Police Station.
Mr. Vijay Thakur, father of the victim present.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 21, 2023.

P.C. :

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for respondent No.2.
2. This is an application for bail filed by the applicant in connection with C.R. No.294 of 2022 registered with Khandeshwar Police Station on 19.11.2022 for the offence punishable under Section 363, 376 of the Indian Penal Code, 1860 and under Sections 4 and 8 of Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short).

3. The incident happened on 18.11.2022. The victim left her house to go to the school. The victim did not return home from school. The informant lodged a complaint on 19.11.2022 with Khandeshwar Police Station. On 20.11.2022 the victim was found along with the applicant at Bhor Bus stand. In the statement the victim stated that she had eloped for two days and during the said period the applicant forcefully had sexual relations with her which constitute an offence under the aforesaid sections. The applicant was arrested on 21.11.2022. In the statement recorded under Section 164 of the Code of Criminal Procedure (hereafter "Cr.P.C.", for short) the victim stated that she does not recollect about the physical relations.

4. The victim's father is present and has instructed the learned counsel for respondent No.2 to oppose the application and that he apprehends that the applicant may try and establish contact with the victim. Learned APP and learned counsel for Respondent No.2 appointed by this Court invited my attention to the medical evidence to contend that the same supports the case of the prosecution.

Learned counsel for Respondent No.2 submitted that considering the seriousness of the offence and the fact that the applicant is a minor, this circumstance should be a factor to dissuade this Court from exercising any discretion in favour of the applicant considering the nature of the accusations.

5. At the time of the incident the applicant was 14 years and 11 months of age. The applicant is 19 years of age. Considering that the victim was a minor her consent is immaterial. The applicant is a young boy of 19 years of age.

6. Taking an overall view of the matter and having regard to the statement of the victim under Section 164 of the Cr.P.C., the fact that the applicant is in custody since 21.11.2022, now that the investigation is complete and that the charge-sheet has been filed with the trial likely to take a long time to conclude, the applicant can be released on bail. Hence, the following order.

ORDER

- (i) The application is allowed.

(ii) The applicant – Prakash Govind Pol in connection with C.R.No. 294 of 2022 registered with Khandeshwar Police Station shall be released on bail on furnishing P.R.bond in the sum of Rs.15,000/- with one or more sureties in the like amount.

(iii) 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.

(iv) 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.

(v) The applicant shall attend Khandeshwar Police Station once every first Monday of the month between 11.00 a.m. and 1.00 p.m.

(vi) The applicant shall not make any attempt to establish contact with the victim.

7. The application is disposed of.

(M. S. KARNIK, J.)