



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

BAIL APPLICATION NO. 1773 OF 2023

MOHD. SAMEER MOHD. ANWAR SHAH ..APPLICANT
VS.
STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Mr. Mohammad S. Mulla a/w Mr. Zahir Mulla, for the applicant.
Mr. N. B. Patil, APP for the State.
Mr. Sarfaraj J. Shaikh, for original complainant.
API- Vaishali Vaman Borase, Dharavi Police Station is present.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 15, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under sections 376, 452, 323, 427, 504, 506 of the Indian Penal Code (hereafter 'IPC' for short), under sections 4, 6, 8 and 12 Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short) registered on 17/05/2022 vide C.R. No. 565 of 2022 with Dharavi Police Station, Mumbai. The applicant was arrested on 17/05/2022.

3. The applicant at the relevant time was 21 years of age and the victim was 17 year of age. From the materials, it appears that the applicant and the victim were in a love affair. Prima facie, the applicant and the victim had consensual physical relationship. However, the victim being a minor, consent would be immaterial.

4. Learned counsel for the complainant/victim appeared. He submitted that the complainant/victim have no objection if the applicant is enlarged on bail. The complainant is present in the Court. Though she submits that she and her daughter have no objection if the applicant is enlarged on bail considering his age, it is submitted that the applicant should not harass or threaten the victim or the complainant's family.

5. Considering that the victim is minor, I am not inclined to go by the concession given by the complainant. Suffice it to observe that the applicant is in custody for more than one year with the possibility of the trial commencing any time soon in the near future is remote. There are no other criminal antecedents reported against the applicant. Looking at the age of the applicant and in the facts and circumstances of the present case, the applicant can be enlarged on bail though learned APP opposed the application. The investigation is

complete. The charge-sheet has been filed. The interest and safety of the victim and her family members need to be safeguarded. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Mohd. Sameer Mohd. Anwar Shah in connection with C.R. No. 565 of 2022 registered with Dharavi Police Station 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) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (e) 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.

(g) Except for attending the trial and for the purpose of reporting to the investigating officer, the applicant shall not enter Mumbai or Mumbai Suburban District after being released on bail, till the trial concludes.

6. The application is disposed of.

7. Learned counsel for the respondent no.2 to file vakalatnama within one week from today.

(M. S. KARNIK, J.)