



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

BAIL APPLICATION NO. 2055 OF 2023

VIKAS ASHOK YADAV

..APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

Mr. R.R. Mishra a/w Mr. Himanshu Singh, for the Applicant.
Ms. Anushree Koparkar, for Respondent No.2.
Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 13, 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(1)(2)(n)(3) of the Indian Penal Code, 1860 and under sections 4, 6 and 10 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO', for short) registered on 25/04/2022 vide C.R. No. 467 of 2022 with Dindoshi police station. The applicant was arrested on 25/04/2022.
- 3.** The victim, at the relevant time as per her statement, was 16 years of age. From the School Leaving Certificate, it reveals that she was 14 years of age at the relevant time. It

is the case of the victim that she knows the present applicant as he is the brother of one of her friend. From the statement of the victim, it is seen that relationship between the applicant and the victim was consensual in nature, however, considering the age of the victim such consent is immaterial.

4. Learned APP as well as learned counsel appearing for the respondent no.2 appointed by this Court opposed the application for bail contending that consent of the minor is immaterial. Learned counsel for respondent no.2 submitted that the act alleged constitutes an offence under the aforesaid sections. The applicant at the relevant time was 20 years of age. The applicant was arrested on 25/04/2022 and now is in custody for more than 19 months. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The trial is likely to take a long time to conclude. Further custody will only be by way of a pre-trial punishment. The applicant will face the consequences post-trial if found guilty. In the facts and circumstance of the case, I am inclined to enlarge the applicant on bail

considering the age of the applicant and that there are no criminal antecedents reported against him, by imposing conditions. Learned counsel for the applicant submitted that the applicant will not reside within the jurisdiction of Dindoshi police station. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Vikas Ashok Yadav in connection with C.R. No. 467 of 2022 registered with Dindoshi police station shall be released on bail on his furnishing P.R. Bond of Rs.15,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 15,000/- 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.

(f) Except for attending the trial, the applicant shall not reside within the jurisdiction of Dindoshi police station after being released on bail, till further orders of the trial Court.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(i) The applicant shall not contact, intimidate or threaten the victim.

5. The application is disposed of.

6. I appreciate the valuable assistance rendered by Ms. Anushree Koparkar, learned Advocate, who appeared on behalf of respondent No.2 in this proceeding. Learned advocate may be paid the fees as prescribed by the Legal Aid Services Authority or if not prescribed, the same is quantified at Rs.5000/-.

(M. S. KARNIK, J.)