



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

BAIL APPLICATION NO. 1794 OF 2023

BHAISHANKAR DHANJIBHAI BHAT ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Adv. Mallika Sharma i/b Adv. Anjali Patil for the Applicant

Adv. Viral Mukte for the Complainant.

Mr. P. H. Gaikwad, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 20, 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(2), 323 and 506 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012 registered on 14/08/2022 vide C.R. No.1185 of 2022 with Samta Nagar Police Station, Mumbai.
- 3.** The victim at the relevant time is 6 years of age. The

applicant is the father of the victim. The complainant is the wife of the applicant. I have gone through the statement of the victim recorded under Section 161 of the Cr.P.C. The victim had made allegations against the applicant which constitutes an offence under the aforesaid sections. The applicant was arrested on 14/08/2022 and is now in custody for 1 year and 2 months. The investigation is complete and the charge-sheet has been filed. Learned counsel for the complainant appears in the Court and submits that the matter is amicably settled between the complainant and the applicant. It is stated in the affidavit that owing to matrimonial disputes between the complainant and the applicant who is her husband and due to some misunderstandings the FIR came to be lodged. Learned counsel for the applicant, on instruction, states that if the bail is granted the applicant is ready and willing to stay outside the area where the victim resides.

4. Learned APP vehemently opposed the application. Learned APP states that the victim is just 6 years of age and the offence alleged is serious in nature. It is further

submitted by learned APP that the offence is not compoundable and, therefore, the affidavit which has been filed by the complainant should not be taken on record as the same would amount to tampering with the evidence.

5. I do not wish to make any observations as regards the affidavit that has been filed on behalf of the complainant. Learned counsel for the applicant submitted that due to some matrimonial disputes a false complaint came to be registered against the applicant. The applicant is in custody for more than 1 year and 2 months. In the facts and circumstances of the present case, I am of the opinion that the applicant can be enlarged on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Bhaishankar Dhanjibhai Bhat in connection with C.R. No.1185 of 2022 registered with Samta Nagar 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.

(f) The applicant shall not enter the area where the victim resides till the trial concludes.

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

6. The application is disposed of.

7. I appreciate the valuable assistance rendered by Adv. Vilasini Balasubramanian, who appeared as an amicus curiae who I requested to interact with the minor child, the details of which I refrain from observing as the trial is pending.

(M. S. KARNIK, J.)