



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

BAIL APPLICATION NO.1727 OF 2023

MOHAMMAD MERAJ NOOR AALAM ANSARI ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Ms. Mallika Sharma i/b Ms. Anjali Patil, for the Applicant.
Ms. Veera Shinde, APP for the State.
Mr. Siddharth Pitale, for Respondent No.2.
IO-API- Pandit Shirse, Nehru Nagar police station present.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 12, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

1. This is an application for bail in respect of the offence punishable under sections 376, 376(2)(N), 506 of the Indian Penal Code, under sections 4, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO', for short) registered on 15/03/2023 vide C.R. No.83 of 2023 with Nehru Nagar police station. The applicant was arrested on 15/03/2023.

2. The FIR was registered on 15/03/2023. At the relevant time,

the applicant was 22 years of age. The victim was 16 years of age. The victim in her statement has stated that she knew the applicant for almost 4 years as he was her neighbour. Without going into details of what is mentioned in the statement, suffice it to observe that prima facie, it appears that the relationship between the applicant and the victim appears to be consensual in nature. The victim at the relevant time was 16 years and 7 months of age. Considering the age of the victim, consent may not be material. The applicant is a young boy of 22 years of age. There are no criminal antecedents reported against the him. Learned counsel for the applicant submitted that the applicant is even willing to reside out of Mumbai and Mumbai suburban district. The investigation is complete. The charge-sheet has been filed. The applicant is in custody for almost 7 months. In the facts and circumstances of the present case, I am inclined to enlarge the applicant on bail. Learned APP and learned advocate for the respondent no. 2 opposed the application. It is submitted that the offence is serious.

3. Learned counsel Shri Pitale appearing on behalf of the complainant and the victim who are personally present in the Court submitted that the applicant's father has threatened them to withdraw the case. It is brought to my notice by learned counsel for

the respondent no.2 that the applicant's father has threatened the complainant and the victim that once the applicant is enlarged on bail, the complainant and the victim will face some adverse consequences. Though presently I am not holding anything against the applicant, the applicant and his family are put to a strict notice that any untoward incident or threats to the complainant or the victim will be viewed seriously by this Court. Though I am inclined to enlarge the applicant on bail in the facts and circumstances of the present case, however, it is made clear that in the event of threats from the applicant's side or from his relatives to the complainant or the victim in any manner, consequence of cancellation of bail may follow. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Mohammad Meraj Noor Aalam Ansari in connection with C.R. No. 83 of 2023 registered with Nehru Nagar 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 and for the purpose of reporting to the investigating officer, the applicant shall not enter the jurisdiction of Mumbai, Mumbai Suburban District after being released on bail, 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.

(h) The trial Court is requested to record the evidence of the child witness expeditiously in terms of the mandate of the section 35(1) of the POCSO Act.

4. The application is disposed of.

5. I appreciate the valuable assistance rendered by Shri Siddharth Pitale, the learned Advocate, who appeared on behalf of respondent

No.2 in this proceeding on my request. 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.)