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

BAIL APPLICATION NO. 2216 OF 2022

Mr. Subhan @ Raja Hafiz Bakai ..Applicant
VS.
The State of Maharashtra and anr. ..Respondents

Mr. Shriniwas C. Singh a/w Mr.Vijaykumar Kamble, for the
Applicant.
Ms. A. A. Takalkar, APP for the State.
Mr. Kanishk Waghware, for Complainant/Victim.
PSI- Sindhu Mundhe, Kopalkhairne Police Station.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 27, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP.
- 2.** This is an application for bail in respect of C.R.No. 290 of 2021 dated 12/10/2021 registered with Koparkhairane Police Station for the offence punishable under sections 376(2)(n) of the Indian Penal Code, 1860 and under sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3. The applicant at the relevant time was around 23 years of age. The victim was 14 years and 10 months old. From her statement dated 12/10/2021, it appears that the applicant and the victim were having a love-affair and the relationship appears to be consensual. The victim being a minor, the consent is immaterial. The applicant is unmarried. The applicant is in custody since 26/10/2021 i.e. for more than 1 year and 4 months. The investigation is complete and the charge-sheet has been filed. The trial will take a long time to conclude.

4. It needs to be noted that the applicant's parents have filed an affidavit that they have no objection for the applicant marrying the victim and that the victim is ready to marry the applicant. Likewise, an affidavit is filed by the applicant that he is willing to marry the victim. The affidavits are taken on record.

5. The victim and her mother are present in the Court. It is their stand that the victim and the applicant want to get married. The victim as well as her mother, through learned APP, as well as through the advocate representing the

victim, say that the victim intends to marry the applicant and have no objection if the applicant is released on bail. Even otherwise it is submitted that considering the period the applicant spent in custody and considering the cordial relationship shared between the families, the victim and her mother insist that the applicant be released on bail.

6. Considering that the applicant is in custody for more than 1 year and 4 months and now that the investigation is complete and the charge-sheet has been filed and possibility of the trial concluding any time soon seems remote, no purpose will be served by keeping the applicant incarcerated as a pre-trial punishment. There are no criminal antecedents reported against the applicant. Hence, the following order.

ORDER

(a) The application is allowed.

(b) The applicant –Mr. Subhan @ Raja Hafiz Bakai in connection with C.R. No. 290 of 2021 dated 12/10/2021 registered with Koparkhairane 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.

(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 attend the trial regularly.

7. The application is disposed of.

8. I appreciate the assistance rendered by Ms. Devyani Kulkarni, the learned Advocate, who appeared on behalf of the complainant.

(M. S. KARNIK, J.)