

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

BAIL APPLICATION NO. 3299 OF 2021

Sidny Joseph Febar

..Applicant

VS.

The State of Maharashtra and Anr.

..Respondents

Adv. Hitesh Phulwani for the Applicant.

Smt. Seema Singh for Respondent no. 2.

Mr. S. H. Yadav, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 25, 2023

P.C. :

1. Heard learned counsel for the applicant, learned counsel for the respondent no. 2 and learned APP for the State.

2. This is an application for bail by the applicant- Sidny Joseph Febar in connection with C.R. No. I-559 of 2020, dated 15.10.2020, registered with Ambarnath Police Station, for the offence punishable under sections 376(2)(F)(N), 323, 506 of the Indian Penal Code, 1860 and under sections 3(B) (K), 4, 5(I)(N), 6, 7, 8, 9(I)(N), 10, 16, 17, 18 of the Protection of Children from Sexual Offences Act, 2012.

3. The victim, who is 12 years of age, is the daughter of

the applicant. It is alleged that at the relevant time, when the victim was studying in 4th Standard i.e. in August 2017, the applicant committed an act which is an offence under the aforementioned provisions. Thereafter, on 10/10/2020 the same was repeated. The First Information Report was filed on 15/10/2020. The applicant was arrested on 16/10/2020 and is now in custody for more than 2 years and 3 months without any possibility of the trial concluding any time soon. The charge-sheet has been filed and the investigation is complete.

4. It is pertinent to mention though the allegations are serious in nature. In the statement recorded under section 164 of the Code of Criminal Procedure, 1973, of the victim and her mother on 20/10/2020, though the victim has not resiled from the earlier statement given, it is submitted that she does not want to proceed with the matter against her father. The victim wants to reside in the hostel.

5. Considering that the applicant is in custody for more than 2 years and 3 months, no purpose will be served by detaining him in custody. I am now informed that the victim and her mother is residing in Ambernath. In such

circumstances, the applicant will have to reside outside the jurisdiction of the Ambernath Police Station. Hence, the following order.

ORDER

(a) The applicant- Sidny Joseph Febar in connection with C.R. No. I-559 of 2020, registered with Ambernath 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;

(b) The applicant shall report to the concerned police station once in a month i.e. on first Monday between 11.00 am and 01.00 pm;

(c) The applicant shall not enter the jurisdiction of the Ambernath police station except for the purpose of reporting to the Investigating Officer;

(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.

6. The application is disposed of.

7. I express my gratitude for the able assistance rendered by the learned counsel appearing on behalf of the complainant.

(M. S. KARNIK, J.)