

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3181 OF 2021

Ajit Vrajlal Doshi ... Applicant

V/s.

State of Maharashtra and Anr. ... Respondents

.....
Ms. Anjali Patil, Advocate for Applicant.
Ms. Pallavi N. Dabhollkar, APP for Respondent-State.
Ms. Saraswati Deb, Advocate (Appointed) for Respondent No.2.
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CORAM : G. A. SANAP, J.

DATE : 25th OCTOBER, 2023

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1. Heard finally.
2. Applicant who has been arrested in Crime No.I-64 of 2021 registered with Tilak Nagar Police Station, Dombivali for the offences punishable under Sections 376, 376(2)(f), 376(AB), 354, 323, 506 of Indian Penal Code (for short “IPC”) and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short “POCSO Act”) and Section 67 of Income Tax Act, has made this application for bail.

3. Learned Advocate for the accused submitted that there are major inconsistencies in the statement of the victim made in the FIR as well as report of the Medical Officer at the time of examination. Learned Advocate pointed out that the FSL report on both the counts is negative and therefore it is self sufficient circumstance to *prima facie* conclude that on account of some enmity the accused has been falsely implicated in this case. Learned Advocate submitted that the accused is 63 years old and is suffering from aged old ailments. Learned Advocate submitted that charge has not been filed after filing charge-sheet. It is pointed out that in the facts and circumstances further incarceration of the accused is not necessary. Learned Advocate submitted that if the Court is inclined to release the accused on bail then Court may impose a condition directing the accused not to enter particular locality. Learned Advocate submitted that accused is ready to abide by the conditions that may be imposed by Court.

4. Learned APP submitted that the victim girl on the date of incident was 10 years old. It is submitted that considering the act committed by the accused he does not deserve any sympathy at this stage. Learned APP submitted that release of the accused on bail can mentally impact the victim girl. Learned APP submitted that minor inconsistencies in the statements at this stage cannot be given

any weightage. It is submitted that negative report of FSL may not be sufficient to discard the entire case of the prosecution. Learned Advocate appointed to represent Respondent No.2 has adopted the submissions made by the learned APP.

5. In order to appreciate the rival submissions, I have gone through the record and proceedings, it is undisputed that the CA report on both the counts is negative. It is the case of prosecution that victim was subjected to penetrative sexual assault. It is undisputed that informant and the accused are the neighbours. It is seen that in the FIR and in the history of the assault narrated before the medical officer to some extent contradictory submission has been made. However, in my view at this stage much weightage cannot be given to this aspect.

6. In this case, accused has been in jail since 2021. The CA report is not supporting the version of the prosecution. Considering the facts in totality and particularly the fact that the accused is 63 years old, in my view subject to appropriate condition he can be released on bail. In my view, his further incarceration may amount to pretrial conviction. In the facts and circumstances, I am inclined to grant the Bail Application.

7. In view of the above, I proceed to pass the following Order:

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) Applicant/accused - Ajit Vrajlal Doshi be released on bail in C.R.No. I-64 of 2021, registered with Tilak Nagar Police Station, Dombivali, on furnishing P. R.Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with solvent surety in the like amount.
- (iii) The Applicant shall not enter the limits of Greater Bombay and the limits of Thane District during the pendency of trial save and except for the purpose of attending the Court on the given date, with prior intimation to the jurisdictional Police Station.
- (iv) The Applicant shall not in any manner pressurize or threaten the victim and the family members of the victim and the prosecution witnesses.
- (v) The Applicant shall not in any manner tamper with the prosecution evidence.

(vi) Accused shall provide the address to the concerned Police Station, Dombivali where he would be staying after his release from jail.

8. The Application stands disposed off.
9. Fees of appointed learned Counsel be paid as per rules.

(G. A. SANAP, J.)

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by SONALI
SATISH KILAJE
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2023.10.27
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