

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

BAIL APPLICATION NO. 3445 OF 2021

Anuj Hiranman Tiwari

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Brijesh Shukla a/w. Kshitij Shukla for the Applicant.
Mr. S.V.Gavand, APP for the State.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 10th APRIL, 2023.**

P.C.

1. This is an application under Section 439 Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Special Case (POCSO) No. 200 of 2021 for offences under Section 376(2)(1)(f)(n), 354, 354(a), 354(b), 506 of the Indian Penal Code , and Section 6, 8, 10, 12 of the Protection of Children from Sexual Offences Act, 2012.

2. Heard learned Counsel for the Applicant and learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

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3. The first informant is 15 years old daughter of the Applicant herein. The allegations made in the first information report prima facie reveal that on 15.06.2020 at about 12.30 a.m. the Applicant touched her breast. She claims that she had informed this incident to her mother. She has further stated that on 19.06.2020 during the night time, the Applicant once again touched her body. The victim has made allegations that the Applicant used to constantly sexually abuse her. The statement of the victim was also recorded under Section 164 of Cr.P.C. which is in consonance with the allegations leveled in the FIR. The statement of the mother of the victim i.e. the wife of the Applicant herein also prima facie reveals that the victim had told her that the Applicant herein had touched her breast at the night on 15.06.2020. She has further stated that in the month of August, 2020 the victim had again complained to her that the Applicant herein is forcing her to have sexual relation with him. The statement of the victim, coupled with the statement of the mother of the victim, prima facie reveals that the Applicant is involved in sexually abusing his daughter, who at the relevant time was 15 years of age.

4. Learned APP states that the trial has commenced. Considering the gravity of the offence, I am not inclined to exercise

discretion under Section 439 of Cr.P.C. Furthermore, the considering the relationship between the Applicant and the victim and the other witnesses, the possibility of the Applicant threatening or influencing the witnesses cannot be ruled out. Hence the Application is dismissed.

(ANUJA PRABHUDESSAI, J.)