



Diksha Rane

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

BAIL APPLICATION NO.2147/2023

AJAY SHAM KALE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Rohit Prabhakar Bidwe for the applicant.

Ms. Veera Shinde, APP for the State.

Adv. Saswati S. Deb for the respondent no.2.

PSI Sandip Parvate, Junner Police Station.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 18, 2023.

P.C. :

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

2. This is an application for bail in respect of the offence punishable under Sections 376(2)(i) of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short) registered on 6/11/2022 vide C.R. No.353/2022 with Junnar Police Station, Pune Rural.

3. Learned counsel for the applicant submitted that the applicant was arrested on 6/11/2022 and is in custody for

almost eleven months. It is further submitted that the applicant has been falsely implicated. The applicant at the relevant time was 21 years of age, married, having two children. The victim was 14 years of age. It is alleged that the applicant had forcible physical relations with the victim. The victim became pregnant and delivered a child. The DNA report reveals that the applicant is a biological father of the victim.

4. Learned APP and learned counsel for the respondent no.2 opposed the application.
5. Considering the age of the victim, consent of the victim is immaterial. At this stage, I am not inclined to enlarge the applicant on bail. The application is rejected.
6. The trial Court is requested to record the evidence of the child witness in view of the mandate of Section 35(1) of the POCSO expeditiously.
7. Liberty to apply afresh after the evidence of the child witness is recorded.
8. The application is disposed of.

(M. S. KARNIK, J.)