

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

**INTERIM APPLICATION NO. 3513 OF 2022
IN
BAIL APPLICATION NO. 3821 OF 2021**

Ansar Ahmed Mohd. Habib Salmani ..Applicant
VS.
The State of Maharashtra ..Respondent

Adv. Laxman Kalel for the Applicant.

Mr. N.B. Desai for the Respondent no. 2.

Mr. S. V. Gavand, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 7, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** For the reasons mentioned in the Interim Application, the application is allowed.
- 3.** The Criminal Bail Application No. 3821 of 2021 is restored to file.
- 4.** The interim application is disposed of accordingly.

BAIL APPLICATION NO. 3821 OF 2021

- 5.** This is an application for bail by the applicant- Ansar Ahmed Mohd. Habib Salmani, in connection with C.R. No.47

of 2021 dated 16/02/2021, registered with Vashi Police Station, under sections 354 and 376(A)(B) of the Indian Penal Code, 1860 and sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO", for short).

6. The applicant was arrested on 16/02/2021 and is in custody almost for a period of 2 years. The age of the victim was 9 years. The victim stated that she was called by the applicant to his house where he is alleged to have committed the offence which is punishable under the aforesaid sections. In the statement of the victim on 16/02/2021 there are no allegations of any penetrative sexual assault. However, in her statement dated 11/03/2021 recorded under section 164 of the Code of Criminal Procedure, 1973, she alleged the act which is an offence punishable under section 4 of the POCSO Act.

7. Learned counsel for the applicant submitted that the offence is registered at the instance of the beauty parlour owner who is a good friend of the applicant's mother. According to the learned counsel for the applicant, the beauty parlour owner is in competition with the applicant

who is also running a saloon in the area. Of course, these are the matters for the trial Court to consider during the trial.

8. The medical evidence records that there is no sexual intercourse. There is a delay in reporting allegations regarding penetrative sexual assault. The applicant is in custody for more than 2 years with no possibility of the trial concluding any time soon. There are no criminal antecedents reported against the applicant. The investigation is complete and the charge-sheet has been filed. Taking an overall view of the matter, the applicant can be released on bail. Hence, the following order.

ORDER

(a) Applicant- Ansar Ahmed Mohd. Habib Salmani, in connection with C.R. No.47 of 2021, registered with Vashi Police Station, shall be released on bail, on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount;

(b) 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;

(c) The applicant shall report to the concerned police station as and when called;

(d) The applicant shall not reside in the jurisdiction of the Vashi police station and shall enter the jurisdiction only for the purpose of reporting;

(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.

9. The application is disposed of.

(M. S. KARNIK, J.)