



Diksha Rane

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

BAIL APPLICATION NO.2534/2023

SHAHBAZ ALTAF HUSAIN

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Mallika Sharma i/b. Adv. Anjali Patil for the applicant.

Ms. Veera Shinde, APP for the State.

Adv. Vishnu Wani for the respondent no.2.

PSI Kshirsagar, Sewree Police Station.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 30, 2023.

P.C. :

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

2. This is an application for bail in respect of the offence punishable under Sections 376 (2)(f)(i)(j)(n), 354(b), 323, 506 of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 4, 6, 8, 10, 12 Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short) registered on 20/11/2022 vide C.R. No.508/2022 with Sewree Police Station.

3. The applicant is the step-father of the victim. At the

relevant time when the offence is allegedly committed the victim was 15 years of age.

4. Initially the First Information Report (FIR) was registered on 20/11/2022 for the offence under Sections 323, 354(b), 506 of the IPC. The victim's grand-mother alleged that the applicant committed the acts against the victim which constitutes the offence under the aforesaid sections. Thereafter, in the supplementary statement recorded on 24/11/2022 it is alleged that the applicant, sometime in the year 2021, had committed an act which constitutes an offence punishable under Section 376(2)(f)(i)(j)(n) of the IPC and under Sections 4, 6, 8, 10, 12 POCSO Act.

5. The applicant was arrested on 21/11/2022 and now is in custody for more than one year. The victim's mother has filed an affidavit that the victim was instigated by her grand-mother to file the present FIR. It is further stated that the victim's mother as well as the victim do not wish to pursue any legal action against the applicant.

6. The victim is personally present in the Court. I had asked learned APP to interact with the victim. Learned APP

informed that the victim does not want to pursue the matter and has no objection if the applicant can be enlarged on bail.

7. Learned APP opposed the application for bail and submitted that the affidavit filed by the victim's mother and the stand taken by her in the said affidavit amounts to tampering with the evidence.

8. In the facts and circumstances of the present case, I am of the considered opinion that as the applicant is in custody for more than one year, any further incarceration will only be by way of a pre-trial punishment. The applicant will suffer the consequences if he is convicted. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. There is no possibility of the trial commencing any time soon. The applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Shahbaz Altaf Husain in connection with

C.R. No.508/2022 registered with Sewree 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.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 15,000/- for a period of 6 weeks in lieu of surety.

(d) The applicant shall attend the Investigating Officer of Sewree police station as and when called.

(e) 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.

(f) 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.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicant shall not enter the jurisdiction of Sewree Police Station till the trial concludes.

(i) The applicant shall surrender his passport, if any, to the investigating officer.

9. The application is disposed of.

(M. S. KARNIK, J.)