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

BAIL APPLICATION NO.2923/2022

AMIT POPAT UGRIJA @ AMIT KHARWA ..APPLICANT

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Shikhani Shah h/f. Adv. S. R. Gaud for the applicant.

Ms. A. A. Takalkar, APP for State.

Adv. Swaroop Karade for respondent no.2.

PI Shivalkar, Dadar Police Station.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 20, 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 363, 376, 406, 411 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 4, 5(j)(ii), 8, 10, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012 (hereafter 'POCSO' for short), registered vide First Information Report (FIR) No.256/2022 with Dadar Police Station.

3. The date of the incident is alleged to be December 27,

2021. At the relevant time the age of the victim was 16 years and 4 months and the applicant was 23 years of age. The statement of the victim was recorded on April 29, 2022. The victim has stated that there was a love affair between the applicant and the victim. The applicant asked the victim to get all her gold ornaments which her father had prepared for her and the cash amount of Rs.70,000/-. Accordingly, she left her home and started residing with the applicant. Thereafter, it is stated that the applicant did not treat the victim well. The victim resided with the applicant from December 27, 2021 to April 23, 2022.

4. In the medical examination of the victim that was conducted on April 28, 2022, the victim has stated the history that she absconded with the applicant and was staying with him for past four months where she was given a separate room. The victim gave no history of sexual intercourse. She further did not give history of physical assault. It is further stated that the victim is an adopted child. The victim being a minor, her consent is immaterial.

5. The applicant, however, has given history to the Medical Officer that there was a physical relations between

the applicant and the victim and the victim did not object the sexual intercourse at any occasion. It is alleged that the victim is pregnant. The DNA report, however, is inconclusive.

6. The applicant's mother who also arraigned as an accused is absconding. It is alleged that she sold all the gold ornaments which the victim has got along with her when she left her parental home.

7. The applicant is in custody since April 29, 2022 for a period of eight months. Considering the nature of accusations, the applicant will face the consequences if on conclusion of the trial he is convicted. However, in the present facts, as the investigation is complete, charge-sheet has been filed and the trial is not likely to conclude any time soon, the applicant can be enlarged on bail. Hence the following order.

ORDER

(a) The application is allowed.

(b) The applicant-Amit Popat Ugrija @ Amit Kharwa in connection with FIR No.256/2022 with Dadar 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.

(c) The applicant shall report to the Investigating Officer of the concerned police station once in a month on every first Monday of the month between 11.00 a.m. and 1.00 p.m.

(d) 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.

(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.

8. The application is disposed of.

9. I express my gratitude for the able assistance rendered by the advocate- Swaroop Karade representing the respondent no.2.

(M. S. KARNIK, J.)