

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

BAIL APPLICATION NO. 4455 OF 2021

Faikali Hasan Surve	 Applicant
v/s.	
The State of Maharashtra and anr.	 Respondents

Ms. Mallika Sharma for the Applicant.
Mr. S.V. Gavand, APP for the State.
Ms. Manisha Deokar, advocate appointed by Court for R.No.2.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 10th MARCH, 2023.

P. C. :-

. This is an Application under section 439 of Cr.PC. filed by the aforesaid Applicant who is facing trial in POCSO Special Case No.106/2021 on the file of Special Judge under POCSO Act, Sessions Court, Dindoshi, Mumbai for offences punishable under sections 376(2)(i), 354 of the Indian Penal Code and sections 4, 6, 8 and 10 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

2. Heard learned counsel for the Applicant, learned APP for the State and learned counsel for the victim – Respondent No.2. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The FIR was lodged by the Counselor at Snehasadan Sanstha. A perusal of the FIR reveals that the victim had run away from her home and was housed in Snehasadan. The first informant has stated that on 07/01/2021, the victim informed her that her uncle i.e., the Applicant herein had sexually abused her. She has also claimed that the son-in-law of the Applicant as well as her boyfriend had sexually abused her. On the basis of the information given by the victim, the Counselor lodged the FIR pursuant to which C.R.No.15/2021 came to be registered against the Applicant and the other co-accused before M.I.D.C. Police Station.

4. The victim claims that she was repeatedly raped by her uncle, his son-in-law and her boyfriend. The victim was referred for medical examination. The medical examination reveals that the hymen was intact and that the victim had not suffered injury of any nature. The medical report is not in consonance with the statement made by the victim.

5. Having considered the entire material on record, in my considered view, no case is made out to detain the Applicant in

custody. The Applicant is a permanent resident of Mumbai and there are no chances of the applicant absconding and/or thwarting the course of justice. Hence, the Application is allowed on the following terms and conditions :-

- (i) The Applicant – Faikali Hasan Surve who is facing trial in POCSO Special Case No.106/2021, is ordered to be released on cash bail in the sum of Rs.25,000/- for a period of six weeks ;
- (ii) The Applicant shall, within the said period of six weeks, furnish PR. bonds in the sum of Rs.25,000/- with one or two solvent sureties in the like amount ;
- (iii) The Applicant shall report to M.I.D.C. Police Station, Mumbai on every 1st Monday of the month between 11.00 a.m. to 02.00 p.m. until further orders ;
- (iv) The Applicant shall not interfere with the victim and the other witnesses and shall not tamper with the evidence and shall not attempt to influence or contact the victim, complainant, witnesses or any person concerned with the case in any manner ;

(v) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.

(vi) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

6. Bail Application stands disposed of in above terms.

PREETI
H
JAYANI

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by PREETI H
JAYANI
Date: 2023.03.15
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(SMT. ANUJA PRABHUDESSAI, J.)