



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

BAIL APPLICATION NO.2916 OF 2023

ARBAZ YASEEN SHAIKH

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Alyre Mohd. Kasim i/b. Adv. Roshni N. Khan for the
Applicant.

Ms. Veera Shinde, APP for the State.

Adv. Sarfaraj J. Shaikh for the complainant.

API Rohit Jadhav.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 20, 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 363, 365, 376(2)(n) of the
Indian Penal Code (hereafter 'IPC' for short) and under
Sections 4, 8 of the Protection of Children from Sexual
Offences Act, 2012 (hereafter "POCSO Act", for short)
registered on 13.10.2022 vide C.R. No.1113 of 2022 with
MIDC Police Station.

3. At the relevant time the victim was 17 years and 4 months of age. The applicant was 22 years of age.

4. Learned counsel for the complainant is present and submits that the victim who is personally present and now a major has no objection if the applicant is enlarged on bail. The victim is personally present in the Court and is identified by the learned counsel for the complainant as well as the Investigating Officer.

5. Learned APP opposed the application for bail.

6. Prima facie the relationship between the applicant and the victim appear to be consensual in nature. The victim at the relevant time was 17 years and 4 months. It is the contention of learned counsel for the applicant that the romantic relationship between the applicant and the victim who was of an age of understanding is being criminalised.

7. In the facts and circumstances of the present case I am inclined to enlarge the applicant on bail. The applicant was arrested on 15.10.2022 and is in custody for more than one year. The investigation is complete and the charge-sheet has been filed. There are no criminal antecedents

reported against the applicant. The trial is likely to take a long time to conclude. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Arbaz Yaseen Shaikh in connection with C.R. No.1113 of 2022 registered with MIDC 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 is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- (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. The applicant shall not threaten or influence the victim or establish any contact with her.
- (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.

(f) Except for attending the trial the applicant shall not enter the Mumbai/Mumbai Suburban District after being released on bail, till the trial concludes.

(g) The applicant shall attend the trial regularly.

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

8. The application is disposed of.

9. Liberty to file the vakalatnama as requested by learned counsel for the complainant.

(M. S. KARNIK, J.)