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

BAIL APPLICATION NO.3012 OF 2023

NARESH GOVIND CHOUDHARY

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Saili N. Dhuru for the applicant.

Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 7, 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 376(3)(I)(n), 506, 504 of the Indian Penal Code (hereafter 'IPC' for short) and under Section 92(d) of the Rights of Persons with Disabilities Act, 2016 registered on 15.01.2023 vide C.R. No.06 of 2023 with Vikramgad Police Station, District Thane.

3. The victim is 22 years of age who is suffering from intellectual disability since birth and does not talk much.

The complainant i.e. the mother of the victim and her family members are able to understand and converse with the victim. Four years prior to the incident the victim was married to one person staying in a nearby village. The marriage did not work out. The victim came back to reside with her parents. The complainant noticed some changes in the victim and hence took her to the doctor when it was realised that the victim is pregnant. When the complainant confronted the victim, she revealed that it is the applicant who had committed sexual intercourse with her on several occasions. Though the baby was delivered but the baby did not survive.

4. Learned counsel for the applicant submitted that the DNA report of the baby excludes the applicant to be the biological father. The victim is concluded to be the biological mother of the baby.

5. Learned APP opposed the application for bail.

6. No doubt there is a delay in registration of the FIR, but the said aspect as to the effect of delay is a question which will be decided at the time of the trial. The DNA

report excludes the applicant to be the biological father. Suffice it to observe that the applicant was arrested on 15.01.2023 and is in custody for almost 10 months. The investigation is complete and the charge-sheet has been filed. The applicant will face the consequences of the trial if found guilty. Further custody of the applicant will only be by way of pre-trial punishment. There are no criminal antecedents reported against the applicant. The applicant can be enlarged on bail by imposing stringent conditions. These are prima facie observations not to influence the trial Court. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Naresh Govind Choudhary in connection with C.R. No.06 of 2023 registered with Vikramgad Police Station, District Thane 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.

(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 jurisdiction of Vikramgad Police Station, District Thane after being released on bail, till the trial concludes.

(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 to contact with the victim or her family members.

7. The application is disposed of.

(M. S. KARNIK, J.)