



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

BAIL APPLICATION NO. 3206 OF 2023

MAULA SARIFUL SHAIKH ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ORS. ..RESPONDENTS

Mr. Ayub B. Khan, for the Applicant.
Mr. N. B. Patil, APP for the State.
Ms. Trupti Khamkar, for Respondent No.2.
PSI- Mr. S.B. Sonawane, Versova police station present.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 18, 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(2)(i), 376(2)(j), 376 (2)(n), 354(d), 506 of the Indian Penal Code, 1860 and under sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 registered on 09/11/2022 vide C.R. No. 602 of 2022 with Varsova Police Station.
- 3.** At the relevant time, the applicant was 22 years of age whereas the victim was around 15 years and 6 months. The applicant and the

victim knew each other for more than 6 to 7 months. The date of the incident on which the alleged act which constitutes an offence under the aforesaid sections is stated to have been committed is 24/10/2022 and thereafter on 29/10/2022 and 30/10/2022. The FIR was registered on 09/01/2022. The applicant was arrested on 16/11/2022. Learned counsel for the applicant submitted that this is a clear case of a romantic relationship between the applicant and the victim which led to the consensual physical relationship.

4. Learned APP opposed the application. Learned counsel for the victim appointed by this Court submitted that the victim has filed an affidavit stating that she has no objection to the accused being enlarged on bail. The affidavit is taken on record. My attention is invited by learned counsel for the victim at page no. 122 of the paper-book which is an x-ray report which gives an impression that radiologically the age of the victim is more than 18 years and less than 19 years.

5. The applicant was arrested on 16/11/2022 and is now in custody for almost 11 months. The trial is likely to take a long time to conclude. In the facts and circumstances of the present case, further incarceration of the applicant will only be by way of a pre-trial punishment. The investigation is complete. The charge-sheet

has been filed. There are no criminal antecedents reported against the applicant. Looking at the age of the applicant and taking an overall view of the matter, I am of the view that the applicant can be enlarged on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Maula Sariful Shaikh in connection with C.R. No.602 of 2022 registered with Varsova police station shall be released on bail on his furnishing PR. 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 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) The applicant shall attend the trial regularly. The applicant

shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The application is disposed of.

7. I appreciate the valuable assistance rendered by Ms. Trupti Khamkar, the learned Advocate, who appeared at my request on behalf of respondent No.2 in this proceeding. Her engagement be regularized by the Maharashtra State Legal Services Authority.

(M. S. KARNIK, J.)