

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

BAIL APPLICATION NO.3215 OF 2022

Adik Raghunath Pol

..Applicant

VS.

The State of Maharashtra and Anr.

..Respondents

Adv. Vivek N. Arote a/w Adv. Avinash Chavan, for the
Applicant.

Mr. Tejas Mane for the Respondent no. 2.

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

PI Jaydeep Gaikwad, Nehru Nagar Police Station is present.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 16, 2023

P.C. :

- 1.** Heard learned counsel applicant, learned counsel for the respondent no. 2 and learned APP for the State.
- 2.** This is an application for bail in respect of the C.R. No. 364 of 2022, registered with Nehru Nagar Police Station, for the offence punishable under Sections 376, 376(2)(f) and 354 of the Indian Penal Code, 1860 and under sections 4, 8, 12 of the Protection of Children from Sexual Offences Act, 2012.
- 3.** The applicant is the father of the victim who is alleged

to have sexually assaulted his Daughter. The age of the victim at the relevant time was 13 years and 10 months. The incident alleged in the statement dated 01/06/2022 of the victim occurred between February and May-2022. It is the case of the prosecution that the statement of the victim is corroborated by the statement of the brother of the victim. There is some discrepancy in the statement of the victim and the brother of the victim. The applicant is stated to be addicted to alcohol. Before this court an affidavit dated 09/12/2022 has been filed by the complainant - mother of the victim. Paragraph nos. 2 to 5 reads thus :

“2. I say that The Applicant/Accused is my husband and the said case if filed by me by mistake without applying mind and getting angry due to his addiction to alcohol.

3. I say that the said FIR was lodged by me due to some miscommunication and misunderstanding between me and my daughter. I further say that the said FIR was lodged by me with the help of my mother and my daughter.

4. I say that neither do my daughter (victim), nor my mother, nor I have any claim or allegations against my husband i.e. the present Applicant and also, we are not willing to continue with the said case. Therefore, I most respectfully submit before this Hon’ble Court that I as well as others have no objection if this Hon’ble Court allows the present Bail Application and grants Bail to the present Applicant, hence this Affidavit.

5. I say that keeping the present Applicant/Accused in jail will cause hardship to me and my

family as the Applicant is the sole bread earner of the entire family.”

4. The complainant and the victim are present in the court. They are not supporting the earlier statements recorded by them. It is stated by the complainant that the affidavit has been filed voluntarily. Learned APP submits that this virtually amounts to tampering with the evidence. The complainant and the victim who are present in this court insist that there was some misunderstanding that the incident alleged did not take place, however, they were upset with the behavior of the applicant as he was addicted to alcohol and troubling them and therefore, the complaint came to be filed.

5. Be that as it may, the charge-sheet has been filed and the investigation is complete. Learned APP on instructions further states that the victim is now residing with the grandmother at Airoli, Navi Mumbai. The applicant is in custody since 02/06/2022 i.e. for more than 6 months. Considering the overall facts and circumstances the applicant could be released on bail. Hence, the following order.

ORDER

(a) The applicant- Adik Raghunath Pol is directed to be released on bail in respect of the C.R. No. 364 of 2022 registered with Nehru Nagar Police Station, on executing P.R. bond in the sum of Rs.15,000/- with one or more sureties in the like amount.

(b) 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.

(c) 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.

6. The Bail Application is disposed of.

(M. S. KARNIK, J.)