

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3319 OF 2022

Elayaraja Kandasamy Nadar ... Applicant

Versus

The State of Maharashtra and another ... Respondents

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Mr. Balwant Salunkhe for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

Ms. Trupti Khamkar alongwith Ms. Kritika Mishra for Respondent No.2.

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CORAM : N.R. BORKAR, J.

DATED : 8 MARCH 2023

P.C. :-

. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.

2. The applicant came to be arrested in Crime No. 150 of 2020 registered at Kalamboli Police Station, Navi Mumbai for the offences punishable under Sections 376(3), 506 of Indian Penal Code and Sections 5(j)(2) and 6 of the Protection of Children from Sexual Offences Act, 2012.

3. I have heard the learned Counsel for the applicant and the learned APP for the State.

4. The allegations against the present applicant, who is the real uncle of the victim are of repeated penetrative sexual assault. It appears that the victim who at the relevant time was about 13 years old became pregnant due to alleged act of the applicant.

5. The learned Counsel for the applicant submits that DNA test was conducted and in the said test present applicant is excluded to be the biological father of baby of the victim. It is further submitted that the applicant is in jail for about 2½ years.

6. I have perused the statement of the victim recorded under Section 164 of Cr.P.C. According to her, the present applicant committed forcible sexual intercourse with her on various occasions. In absence of any enmity between the parties, prima facie, it is unlikely that victim would make false allegations of such a serious nature against her real uncle.

7. Considering the overall facts and circumstances of the case, I am not inclined to release the applicant on bail. Hence, the following order is passed :

(i) Application is rejected.

(N.R. BORKAR, J.)