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

BAIL APPLICATION NO. 3895 OF 2022

Rahul Amin @ Babu Shahajuddin

..Applicant

v/s.

The State of Maharashtra & Anr.

..Respondents

Ms. Sana Raees Khan a/w. Mr. Aditya parmar, Mr. Aniket Pardeshi
for the Applicant.

Ms. Apoorva Gupta, Appointed Adv. For the Respondent.

Mr. S.V.Gavand, APP for the State.

Mr. Kedar Chavan from Cuffe Parade P.. Stn.

CORAM : ANUJA PRABHUDESSAI, J.

DATED : 10th AUGUST, 2023.

P.C.

1. The Applicant, who is facing trial in Special POCSO Case No. 924 of 2021, pending on the file of the learned Special Judge, under POCSO Act, Gr. Bombay, has filed this application under Section 439 of Cr.P.C. for enlargement on bail.

2. The aforesaid case arises from Crime No. 22 of 2016 registered with Cuffe Parade Police Station, Mumbai for the offences punishable under Section 376(I), 506 of the Indian Penal Code, and Sections 4, 6, 8, 12 of Protection of Children from Sexual Offences Act.

3. Heard learned Counsel for the Applicant, learned APP for the

State and the learned Counsel for the Respondent No.2. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

4. The records prima facie indicate that the victim who is a child within the meaning of Section 2(d) of the POCSO Act, was pregnant, and she has delivered a child. She had alleged that the Applicant herein, who is her cousin had sexually abused her. The records reveal that the blood sample of the applicant as well as of the child was taken for DNA Analysis. The DNA report reveals that the applicant herein is excluded to be the biological father of the child. The records further reveal that the applicant himself is a young boy. He is in custody since 12.06.2021. It is stated that charge is not yet framed. Considering the large pendency, there is no possibility of the trial being concluded within reasonable time. In such circumstances, in my considered view, this is a fit case to exercise discretion under Section 439 Cr.P.C.

5. Under the circumstances, the application is allowed on the following terms and conditions:-

(i) The Applicant who is facing trial in Special POCSO Case No. 924 of 2021, pending on the file of the learned Special Judge, under

POCSO Act, Gr. Bombay, is ordered to be released on bail on furnishing bail bond in the sum of Rs.40,000/- (Rupees Forty Thousand Only) with one or two solvent sureties in the like amount;

(iii) The Applicant shall attend the Cuffe Parade Police Station, once in every three months, on the first Monday of the month, until framing of the charge;

(iv) The Applicant shall attend the trial on each and every date, unless exempted.

(v) The Applicant shall not interfere with the victim girl, or the other witnesses, or tamper with the evidence in any manner;

(v) The Applicant shall keep the Investigating Officer informed of his permanent as well as temporary address, if any, and his contact details, and/or change of residence or mobile details from time to time.

(ANUJA PRABHUDESSAI, J.)