



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.516 OF 2023

Kalyan Namdeorao Gaikwad,
Age-29 years, Occu:Private Teacher,
R/o-Ukhali, Taluka-Aundh Nagnath,
District-Hingoli.

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
Through Hatta Police Station,
Hatta, District-Hingoli,
- 2) X Y Z

...RESPONDENTS

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Mr. Santosh S. Jadhavar Advocate for Applicant.
Mr. D.J. Patil, A.P.P. for Respondent No.1 – State.
Mr. Chaitanya C. Deshpande Advocate with Mr. Balasaheb
Magar Advocate for Respondent No.2.

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CORAM: S.G. MEHARE, J.

DATE : 15th JULY 2024

ORDER :

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel to assist the PP.
2. The applicant seeks bail in Crime No. 232 of 2021

registered with Hatta Police Station, Hatta, District-Hingoli for the offence punishable under Sections 363, 366(a), 376(c) (f) (i) (j) (n) read with Section 34 of the Indian Penal Code and Sections 3, 4 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3. The application is based upon the order passed by this Court in Bail Application No.597 of 2022, on 12th August 2022, in which the Court has expressed disinclination to grant bail. Therefore, the bail application was withdrawn. The Court observed that it was informed that the trial has commenced; the Court is, therefore, requested to conclude the same within ten months. Apparently, the Court did not grant leave to the applicant to approach this Court if the trial is not concluded within ten months.

4. The applicant is seeking bail for not completing the trial within ten months from the date of order of this Court. He seeks bail for the delay in trial. He has placed on record the copy of roznama and advanced the argument that the prosecution has failed to expedite the trial and conclude the same as per the order of this Court. This Court, again, by order dated 23rd June 2023, directed the trial Court to issue a summons to the victim, and even if she appears on her own before the trial Court, it

shall record her evidence. Since then, this application is kept pending. For the first time, it has been brought to the notice of this Court that by order dated 12th August 2022, no liberty was granted to file a fresh application before this Court on failure to conclude the trial within ten months.

5. Learned counsel for the applicant is relying on the case of *Javed Gulam Nabi Shaikh vs. State of Maharashtra, LAWS(SC)-2024-7-3, dated 3rd July 2024* and the case of *Shri Mahendrasingh s/o Vikramsingh Chauhan vs. the Central Bureau of Investigation, New Delhi in Bail Application No.1048 of 2018 decided on 5th December 2018*, by this Court.

6. Learned counsel assisting the APP made a statement that the accused was changing the lawyer and spent much time on the same. He was not allowing the lawyer or the trial Court to conduct the matter unless he was produced from the jail. A concrete statement was made that the victim was cross-examined continuously for four months.

7. In view of the above, the Court is of the view that since this Court did not pass the orders to file the application directly with this Court, the applicant should have approached the trial court to seek bail on all grounds available. Merely fixing the time to conclude the trial by the trial Court does not give the

applicant the right to approach this Court. However, every successive bail application is subject to change in circumstances.

8. In the above terms, the application stands dismissed.

[S.G. MEHARE, J.]

asb/JULY24