

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

CRIMINAL BAIL APPLICATION NO. 440 OF 2024

Jeet Inon Karu Gupta

...Applicant

Vs.

The State of Maharashtra and Others

...Respondents

Ms. Ahilya T. Nalawade, for the applicant.

Mr. P. H. Gaikwad, APP for State-Respondent.

Mr. Yogendra M. Koli i/b M/s. C. K. Legal, for Respondent No. 3 .

Mr. R. Gacche, PSI, Present.

CORAM:- ANIL S. KILOR, J.

DATED:- 13th AUGUST, 2024

PC:-

1) Heard.

2) By this application under Section 439 of the Code of Criminal Procedure, the applicant is seeking bail in Crime No.665 of 2023 registered with Shahupuri Police Station, Dist. Kolhapur, for the offences punishable under Sections 354-D, 385, 509, 452 and 506 of the Indian Penal Code, 1860 and Sections 8 and 12 of The Protection of Children from Sexual Offences Act, 2012.

3) After going through the statement of the victim dated 4th July, 2023, on the basis of which the FIR came to be registered. It is prima

facie evident that the provisions of POCSO Act will not apply to the present offence.

4) The learned APP while opposing the present application has placed heavy reliance upon the statement of the victim given under Section 164 of the Code of Criminal Procedure, 1973, where from, it is evident that the victim has improvised her statement and it appears that to attract provisions of POCSO Act, she has narrated certain events, which took place when she was minor. However, those events are missing in the first statement before the police. Thus, it creates doubt about veracity of the prosecution case as far as the offence under the provisions of POCSO Act is concerned. The applicant is in jail from last about one year and in the meantime the charge-sheet has been filed.

5) In the circumstances, considering the nature of allegations made against the applicant and the evidence collected by the Investigating Officer, I am of the opinion that further custody of the applicant is not necessary.

6) As far as the apprehension expressed by the learned APP and the learned Counsel for the respondent No. 3 while opposing the bail application that if the application is allowed, there is every possibility that the applicant may pressurize the victim or prosecution witnesses, the same can be addressed by imposing certain conditions. Hence, I pass the following order:-

ORDER

- i. The Bail Application is allowed;
- ii. It is directed that the Applicant shall be released on bail in Crime No.665 of 2023 registered with Shahupuri Police

Station, Dist.-Kolhapur, for the offences punishable under Sections 354-D, 385, 509, 452 and 506 of the Indian Penal Code, 1860 and Sections 8 and 12 of The Protection of Children from Sexual Offences Act, 2012, on furnishing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety in the like amount;

iii The applicant shall not enter into the territorial jurisdiction of Shahupuri Police Station, Dist.- Kolhapur till the conclusion of the trial except on the date of trial;

iv The applicant shall provide his address and name of the nearby police station to the I.O, which he shall attend the said Police Station on 1st and 16th day of every month between 12.00 noon to 2.00 p.m., till the conclusion of the trial except on the date of trial;

v. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

vi. Liberty is granted to the State to apply cancellation of bail if the applicant commits similar offence.;

vii. The Applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the Trial Court for any reason.

viii. Application stands disposed of, accordingly.

[ANIL S. KILOR, J.]