

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2901 OF 2023

Imtiyaz @ Salman Shabbirkhan ... Applicant
Pathan

V/s.

State of Maharashtra ... Respondent

Mr. Kunal Patil with Prashant P. Raut, for the Applicant.

Mrs. Veena Shinde, APP, for the Respondent / State.

Ms. Pratiksha C. Keni, (appointed), for Respondent no. 2

CORAM : ANIL S. KILOR, J.

DATE : 13TH JUNE, 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.389 of 2023, registered with Karveer Police Station for the offences punishable under Sections 363, 366 and 376(n) of the Indian Penal Code and Section 4, 5 and 8 of Protection Of Children from Sexual Offences Act (POCSO Act), 2012.

3. Learned counsel for the applicant submits that the only allegation against the applicant is that he was with the main accused

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while he had given threat to the mother of the victim. It is submitted that there is no role except the aforesaid role attributed to the applicant. He further submits that the applicant is in jail from last more than one year. The investigation is completed and the charge-sheet is filed. Hence custody of the applicant does not require.

4. Learned APP, on the other hand, strongly opposes the application and argues that there is one similar antecedent and since there is a sufficient evidence collected by the IO during the investigation, the bail may not be granted.

5. The learned counsel for the victim reiterates the submission of learned APP and opposed the application and pointed out that in earlier similar offence, he was released on bail on certain conditions which were breach by the applicant.

6. In light of the rival submission, I have perused the charge-sheet. From the charge-sheet, it is evident that the only role attributed to the applicant is that while the main accused Salman went to the house of the informant and gave a threat to her, the applicant was there along with him. However, there is no overt act attributed to the applicant. Further more as the investigation is completed and the charge-sheet has been filed, I am of the opinion that further custody of the applicant is not necessary. In the circumstances, I am inclined to grant bail. Accordingly, I pass the following order:

O R D E R

- i) Criminal Application is allowed;
- ii) It is directed that the applicant shall be released on bail in in Crime No.389 of 2023, registered with Karveer Police Station for the offences punishable under Sections 363, 366 and 376(n) of the Indian Penal Code and Section 4, 5 and 8 of Protection Of Children from Sexual Offences Act (POCSO Act), 2012 on furnishing P.R.Bond of Rupees Fifty Thousand with one local solvent surety in the like amount;
- iii) The applicant shall not enter into the territory jurisdiction of Kolhapur, till the conclusion of the trial.
- iv) The applicant shall provide his address and name of the nearby police station to the IO and shall attend the concerned Police Station on 1st and 16th day of every month between 12.00 p.m. 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 for 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 exemption is granted by the trial Court.

7. The Criminal Application is disposed of accordingly.

8. Fees of the appointed advocate Ms. Pratiksha C. Keni to be quantified as per the Rules.

(ANIL S. KILOR, J)