

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

CRIMINAL APPLICATION NO. 96 OF 2024

Alpesh B. Sondagar

.Applicant

Versus

The State of Maharashtra & Anr.

.Respondents

Mr. Mangesh Patel, Advocate, for the Applicant.

Ms. Savita Yadav, APP, for Respondent No.1 – State.

CORAM: MADHAV J. JAMDAR, J.

DATE: 05.04.2024

P. C.

1. This is an Application for cancellation of bail granted to the Respondent No.2-Jaydeep Natwarlal Makwana by Order dated 21.12.2023 passed by the learned District Judge-2 and Additional Sessions Judge, Vasai below Exh.1 in Regular Bail Application No.2103 of 2023 for the offences punishable under Section 354 of the *Indian Penal Code, 1860* (“IPC”) and under Sections 8 and 12 of the *Protection of Children from Sexual Offences Act, 2012* (“POCSO”). Although the F.I.R. was lodged on 06.12.2023, the date of incident occurred from 06.12.2021 to 06.12.2023.

2. The learned Trial Court, while granting bail to the Respondent No.2, has provided elaborate reasons in paragraph nos.8, 9, and 10 which read as under:-

“8] Applicant is behind the bars since 08.12.2023. He was in police custody till 11.12.2023 and thereafter he is taken in judicial custody. Part of his custodial interrogation is completed and his further presence is

no more required for investigation.

9] After going through the FIR it is seen that incident is of the year 2021 of which the victim girl never knows exact date and time. It is important to note that inspite of such alleged Act by applicant, the victim girl again went to the tuition class of sister of applicant and in the month of March, 2023 she started attending some other class and also changed the residence. On 20.11.2023 elder sister of this victim girl has married the applicant against the wish of her parents and then on 06.12.2023 i. e. after the span of about two years, the present report came to be lodged.

10] Anyway this is regular bail application after having undergone custodial interrogation. There was no question of any discovery or recovery. In the statement recorded under Section 164 the victim girl has narrated some additional incident regarding the video prepared by this applicant. But to that also Advocates of applicant by filing pursis at Exh. 16 have informed this Court that he is ready to surrender his mobile phone to the investigating officer. In such circumstances, I see no reason to detain him behind the bars for indefinite period. If some conditions are imposed then purpose of the prosecution would be served. Hence, the following order.”

3. The Trial Court recorded that the victim girl is not aware of the exact date and time when the incident occurred the year 2021. The victim again went to the tuition classes of the sister of the Respondent No. 2. In the month of March 2023, because of the incident in question i.e. the incident of the year 2021, the victim started attending some other tuition classes and also changed the residence. The learned Trial Court has further recorded that on 20.11.2023, the elder sister of the victim got married with the Applicant against the wishes of her parents. F.I.R. was lodged on 06.12.2023. Therefore, the learned Trial Court has given valid

reasons for granting bail to the Respondent No.2.

4. No case is made out for interference in the Order dated 21.12.2023 passed by the learned District Judge-2 and Additional Sessions Judge, Vasai below Exh.1 in Regular Bail Application No.2103 of 2023 for the offences punishable under Section 354 of IPC and under Sections 8 and 12 of POCSO.

5. The Criminal Application stands rejected.

[MADHAV J. JAMDAR, J.]