

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

CRIMINAL BAIL APPLICATION NO.1733 OF 2023

Rahul Vijay Shinde

Age – 36 years, Occupation : Service,

R/at. Nivdunge, Taluka – Patharvadi,

District – Ahmednagar

(At present in Thane Jail, District - Thane)

....Applicant

Versus

1 The State of Maharashtra
(Through Kalyan Taluka Police Station)
District – Thane.

2 ABC,
Age - Years, Occupation -
R/o.Shrilochan Balvikas Kendra,
Nilkamal Residency, Ankharpada,
Pooposit Kamani, Ganpati Ganesh
Temple, Goveli Road, Titwala (E),
Taluka – Kalyan, District – Thane.Respondents

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Mr.Ritesh Thobde a/w. Ms.Zubi Ansari, Advocate for the
Applicant.

Mr.V.B. Konde Deshmukh, Addl. P.P. for Respondent No.1 – State.

Ms.Anubha Rastogi i/b. Ms.Rachita Padwal, Advocate for
Respondent No.2.

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CORAM : MANJUSHA DESHPANDE, J.

DATED : 26th MARCH 2024.

P.C. :

1 The applicant herein is arrested on 14th January 2023, *vide* C.R.No.24 of 2023, registered with Kalyan Taluka Police Station, District–Thane, for the offences punishable under Sections 376(A,B), 376(2)(n), 376(2)(f) and 506 of Indian Penal Code (IPC) and under Sections 4, 6, 17 and 42 of The Protection of Children from Sexual Offences Act (POCSO), 2012.

2 It is the case of the prosecution that the informant who was working as a care taker at Shri Lochan Bal Vikas Kendra, Titwala, lodged a report alleging that the victim girl is a student of the said center. On or before 12th October 2022, the applicant i.e. accused no.1 called the victim in his office and committed rape on her continuously for a period of one month. He also threatened her that he will kill her if she discloses about it to anybody. It is further alleged that the despite of the said information given to accused Nos.2 and 3, they have not taken any action against the accused no.1. The First Information Report (FIR) has been lodged on 14th January 2023. On completion of investigation, charge sheet has been filed before the learned Sessions Court, Kalyan on 11th March 2023.

3 The learned advocate for the applicant has submitted that the investigation in the present matter is already complete and charge-sheet is filed. Therefore, the detention of the applicant is no more necessary, pending the trial. He further submits that the victim girl has not made any immediate disclosure about the alleged act of the accused to anybody. Delay in disclosure cast doubt about the truthfulness of the allegations. He has further pointed out that the other girls living in the said care home do not corroborate the version of the victim girl. Therefore, according to him, the possibility of applicant being falsely implicated cannot be ruled out. In view of the same, he has prayed for grant of bail. As against this, the learned APP has submitted that the offence is of serious nature. The name of the applicant is categorically mentioned in the FIR. The applicant has taken undue advantage of his post and has time and again committed heinous act, as alleged. The learned APP pointed out the statement of the victim girl recorded in question-answer form, wherein she has stated regarding the undue advantage taken by the applicant. She has categorically named the present applicant and has stated that the accused used to call her in his office and thereafter used to

sexually abuse her. She has further stated that the applicant used to threaten her that she should not disclose it to anybody or else threatened her of dire consequences. The victim has categorically stated that she was subjected to such sexual abuse on many occasion. The said statement of the victim girl was recorded in the presence of her mother. The statement of the victim girl has been supported by the medical evidence. Admittedly, the victim girl was staying in the said children care home where the present applicant was the center-head. He has taken undue advantage and has exploited the victim girl. One Mandabai Balu Tarmale who was working as a helper has also supported the version of the victim girl as well as the informant.

4 I have heard the respective parties and after hearing them for some time, it appears that the victim has categorically stated about her sexual harassment at the hands of the applicant. The FIR is corroborated by the statement of the victim girl as well as the medical report which indicates that there has been a penetrative sexual assault. The offence is of serious nature caused to minor girl of 9 years. The applicant has misused his position for

exploitation of the victim girl and has committed a heinous act. Looking to the gravity of offence, I am not inclined to grant bail to the applicant. The prayer for bail is rejected.

5 When inquired about the stage of the trial, the learned APP as well as the learned counsel for the applicant informed that the trial has not yet commenced. The applicant has been arrested on 14th January 2023. Though the charge-sheet has been filed, the trial has not yet commenced. It would therefore be appropriate to direct the learned District and Sessions Judge, Kalyan, to expedite the trial with a liberty to the applicant to renew his request for bail, if trial does not commence even after six months of disposal of this application.

6 The Criminal Bail Application is rejected and disposed of accordingly.

MANJUSHA DESHPANDE, J.