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

BAIL APPLICATION NO.2018 OF 2023

JABIR GULAM ABDUL REHMAN

..APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

Adv. Irfan Khan a/w Adv. Richa Khatu a/w Adv. Archana Shukla i/b. Adv. Sudha Dwivedi for the applicant.

Smt. Megha S. Bajoria, APP for the State.

Adv. Priyanka H. Chavan for respondent No.2.

Mr. Kanavje, PI, SB-1, CID Mumbai.

CORAM : M. S. KARNIK, J.

DATE : APRIL 18, 2024.

P.C. :

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for respondent No.2 appointed by me to represent the victims.

2. This is a second application for bail in respect of the offence punishable under Sections 376(i), 366-A and 354 of the Indian Penal Code (hereafter 'IPC' for short) and under Sections 3, 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short) registered on 08.09.2020 vide C.R. No.1304 of 2020 with Malwani Police Station.

3. There are two victims. On 15.12.2022 the earlier Bail Application No.851 of 2021 filed in this Court was withdrawn with liberty to file a fresh application, if the trial does not proceed in the next six months. The trial has commenced. The deposition of one of the victim has been recorded. Learned counsel for the applicant insisted this Court to go through the deposition. Though at the instance of learned counsel for the applicant I have perused the deposition, I refrain from making any observations as that would prejudice the trial.

4. Learned APP and learned counsel for respondent No.2 opposed the application for bail. Learned APP submitted that the other victim is not traceable. The trial in such circumstances may take some time to conclude.

5. The applicant was arrested on 08.09.2020 and is now in custody for more than three years and seven months. There are no criminal antecedents reported against the applicant. The question of now tampering with one of the victim will not arise as she has already deposed. The applicant does not appear to be a flight risk. In the facts

and circumstances of the present case though the application is opposed by learned APP and learned counsel for respondent No.2, I am inclined to enlarge the applicant on bail. Hence, the following order :-

ORDER

- (a) The bail application is allowed.
- (b) The applicant-Jabir Gulam Abdul Rehman in connection with C.R. No.1304 of 2020 registered with Malwani Police Station shall be released on bail on his furnishing P.R. Bond of Rs.15,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs.15,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) The applicant shall not enter the area of Malwani and Kandivali Police Station after being released on bail, till the trial concludes.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicant shall surrender his passport, if any, to the investigating officer.

(i) The applicant shall not leave the State of Maharashtra without permission of the trial Court.

6. The bail application is disposed of.

(M. S. KARNIK, J.)