

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

BAIL APPLICATION NO.2163 OF 2023

Ibrahim Yamin Ansari
Versus
The State of Maharashtra and Anr.
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Ms Trupti Shetty for the Applicant (through Video conference)
Mr. Ajay Patil, APP for Respondent No.1-State.
Ms Vilasini B. for Respondent No.2.

CORAM :SMT. ANUJA PRABHUDESSAI, J.

DATED: 5th JANUARY, 2024.

P.C.:-

1. This is an application under Section 439 of the Cr.PC. filed by the aforesaid Applicant, who is facing trial in POCSO Special Case No.462 of 2022 pending on the file of learned Special Judge, Dindoshi. The said case arises from C.R. 1821 of 2022 registered with Sakinaka Police Station, Mumbai, for the offences punishable under Sections 354, 354(A)(B), 504 and 506(2) of the IPC and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. Heard Ms Trupti Shetty, learned counsel for the Applicant, Mr. Ajay Patil, learned APP for the Respondent -State and Ms Vilasini B., learned counsel for Respondent No.2. Perused the records and

considered the submissions advanced by the learned counsel for the respective parties.

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3. The aforesaid crime was registered pursuant to the FIR lodged by the daughter of the Applicant, who at the relevant time was 17 years of age. Facts narrated in the FIR reveal that there is matrimonial dispute between the Applicant and his wife i.e. mother of the victim. The victim has alleged that in the year 2020 while she was sleeping the Applicant embraced her and outraged her modesty by touching her inappropriately. She further claims that on 24/07/2022 at about 12.30 a.m. she sensed that someone was sleeping next to her. When she woke up, she saw the Applicant lying over her and trying to disrobe her. She resisted and shouted for help and that the Applicant went away when her two brothers reached the place of the incident.

4. The records indicate that the victim had not disclosed the incident of the year 2020 to her mother. The brothers of the victim had allegedly witnessed the incident of 24/07/2022, however, their statements have not been recorded. The records also indicate that the victim was called to record her statement under Section 164 of the Cr.P.C. and that she refused to appear before the Magistrate and

consequently her statement under Section 164 could not be recorded.

5. In such circumstances and considering the fact that the Applicant is in custody since 26/07/2022 without any progress in trial, in my considered view this is a fit case for grant of bail. Hence, the application is allowed on the following terms and conditions:-

- (i) The Applicant, who is facing trial in POCSO Special Case No.462 of 2022 pending on the file of learned Special Judge, Dindoshi, the Applicant is ordered to be released on cash bail in the sum of Rs.25,000/- for a period of four weeks;
- (ii) The Applicant shall within the said period of four weeks furnish PR bonds in the sum of Rs.25,000/- with one or two sureties to the like amount;
- (iii) The Applicant shall not interfere with the victim and other witnesses in any manner;
- (iv) The Applicant shall report to Sakinaka Police Station, on the first Monday in every three months till the date of framing of the charge;

- (v) The Applicant shall keep the Trial Court informed of his current address and mobile contact numbers and/or change of residence or mobile details, if any, from time to time;
 - (vi) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.
5. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)