



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

BAIL APPLICATION NO. 2272 OF 2023

MAIRAJ AHMED KHAN

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Rohan Chauhan i/b Adv. Kushal Mor for the Applicant.

Ms. Priyanka H. Chavan for Respondent No.2.

Mr. S.H. Yadav, APP for the State.

PSI A.Y. Kamble, Meghwadi Police Station.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 8, 2024

P.C. :

- 1.** Heard learned counsel for the applicant, learned counsel for respondent No.2 and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 363 and 376 of the Indian Penal Code and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, registered vide First Information Report (FIR) No.98/2022 dated 22/03/2022 with Meghwadi Police Station.
- 3.** The application is opposed by the learned APP as well

as by learned counsel for respondent No.2.

4. The applicant had preferred an application for bail before this Court vide Bail Application No. 2003 of 2022. The said application came to be withdrawn on instructions with liberty to apply after 6 months if the trial does not progress. I am informed that there is no progress in the trial. It has been almost a year since the application was withdrawn. The charge has not yet been framed.

5. With the assistance of the learned counsel, I have perused the FIR. At the relevant time, the applicant was 26 years of age and the victim was 16 years of age. Without informing her parents the victim left her home and she went along with one of her friend. It is the allegation that the applicant had committed the act which is an offence under the aforesaid Sections. A perusal of the statement recorded under Section 164 of the Code of Criminal Procedure of the victim would reveal that there was an attempt on the part of the applicant to establish physical sexual relationship with her. The allegations are mainly against some other person.

6. The applicant is now in custody from 25/03/2022 i.e. for a period of 1 year and 10 months as an undertrial without the possibility of trial concluding any time soon. The charge has not been framed yet. The investigation is complete and the charge-sheet is filed. Prolonging custody of the applicant amounts to pre-trial punishment. The applicant will face the consequences post-trial if found guilty of the offence. There are no criminal antecedents reported against the applicant. To allay the apprehension expressed by the learned counsel for respondent No.2 that the applicant may influence or threaten the victim, certain conditions need to be imposed while enlarging the applicant on bail. Hence the following order.

ORDER

- a.** The application is allowed.
- b.** The applicant- Mairaj Ahmed Khan in connection with C.R. No.98 of 2022 registered with Meghwadi Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- c.** The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- 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. The applicant shall not contact or threaten or intimidate the victim.

f. 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.

g. Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter Mumbai/Mumbai Suburban District after being released on bail, till the trial concludes.

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

i. If the applicant breaches any of the conditions, the prosecution and the complainant/victim will be at liberty to apply for cancellation of this bail.

7. The application is disposed of.

8. I appreciate the valuable assistance rendered by

Advocate Priyanka H. Chavan, who appeared on behalf of respondent No.2 in this proceeding. Her engagement may be regularized by the Maharashtra State Legal Services Authority.

(M. S. KARNIK, J.)