

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2829 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Date: 2024.02.08
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Gufran Rafiullah Khan ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Keshav Chavan, for the Applicant.
Mr. S. R. Aagarkar, APP for the State/Respondent No.1.
Ms. Payal Vardhan, for Respondent No.2.
API Shirse P. (IO) and PSI Babar B. D., Pairavi Officer, Nehru
Nagar Police Station, present.

CORAM: N. J. JAMADAR, J.
DATED: 6th FEBRUARY, 2024

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.
2. The applicant is arraigned in CR No.214 of 2023 registered with Nehru Nagar Police Station, Mumbai, for the offences punishable under Sections 354D, 323, 504 and 506 of the Indian Penal Code, 1860 ("the Penal Code"), Section 12 of the Protection of Children from Sexual Offences Act, 2012 ("the POCSO Act") and Section 4 read with Section 25 of the Arms Act, 1959.
3. The gravamen of indictment against the applicant is that the applicant stalked 15 year old daughter of the

first informant. In the month of January, 2023, the applicant had visited the house of the first informant and banged the door of the first informant's house. The applicant allegedly threatened the first informant to solemnize the marriage of the victim with the applicant lest he would take her away. On 21st April, 2023 also the applicant had visited the house of the first informant alongwith two persons. While returning from the first informant's home, the applicant was allegedly armed with a sword and charged on the person of the uncle of the first informant. As a police party was passing by, the applicant was apprehended by police.

4. The learned Counsel for the applicant submitted that the applicant and the victim were in a relationship. The parents of the victim have tutored the victim to state against the applicant.

5. The learned APP and the learned Counsel for the respondent resisted the prayer for bail. The learned APP invited the attention of the Court to the statement of the victim under Sections 161 and 164 of the Code of Criminal Procedure, 1973, wherein the victim has expressed apprehension about the safety of the victim, in the event the applicant is released. The learned Counsel for the victim also

laid stress on the fact that the victim is apprehensive about her safety.

6. I have perused the statement of the victim. It does not appear that the applicant had caused hurt to any of the witnesses. The major offences punishable under Section 354D of the Penal Code and Section 12 of the POCSO Act entail punishment, which may extend to three years. The applicant is 19 years old. He is in custody since 22nd April, 2023. It is unlikely the trial can be concluded within a reasonable period.

7. In the circumstances of the case, the apprehension on the part of the prosecution can be taken care of by imposing stringent conditions. I am, therefore, inclined to release the applicant on bail subject to stringent conditions.

8. Hence the following order:

: O R D E R :

- (i) Application stands allowed.
- (ii) The applicant be released on bail in CR No.214 of 2023 registered with Nehru Nagar Police Station, Mumbai, on furnishing a P.R. Bond of Rs.30,000/- with one or more sureties in the like amount.

(iii) The applicant shall stay away from the Mumbai and Mumbai Suburban districts for a period of three years or till the conclusion of the trial, whichever is earlier.

(iv) The applicant shall not contact the victim, any of her relative or any person acquainted with the facts of the case for any reason whatsoever and shall not tamper with the prosecution evidence. 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.

(v) 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.

(vi) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

(vii) In the event of breach of any of the aforesaid

conditions, the prosecution is at liberty to move for cancellation of bail.

Application stands disposed.

[N. J. JAMADAR, J.]