

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2898 Of 2023

Arjun Jalba Ichke	]	..	Applicant
vs.			
State of Maharashtra & Anr.	]	..	Respondents

Ms.Anjali Patil a/w Tohid Shaikh for the Applicant.

Mr.S.R. Agarkar, APP for the State.

Ms.Shradha Sawant for Respondent No.2.

CORAM : BHARATI DANGRE, J

DATE : 29th January, 2024.

P.C.

1] Heard the learned counsel for the Applicant and the learned APP for the State and the learned counsel for Respondent No.2..

2] The Applicant face accusation under Section 4, 8 and 12 of the POCSO Act and came to be arrested on 06.07.2021 on being accused under the provisions of the Act alongwith Section 376, 354 of the IPC.

3] Perused the charge sheet.

The complainant is the mother of the victim girl aged 7 years

studying in Standard 2 who has reported about the incident on 06.07.2021, that took place on 09.06.2021.

Though Ms.Patil would lay emphasis on the delay, I find sufficient explanation being offered in the complaint and in any case mere delay in lodging the FIR will not adversely impact the case of the prosecution unless it is so established at the time of trial.

4] It is alleged by the complainant that when she accompanied the accused and his wife for purchase of mobile phone on the 09.06.2021 and for some reason, some documents were required to be brought, the present Applicant was sent back home by her and even asked to check upon the children who were left playing, he entered the house and sexually assaulted the little girl

She noticed some abnormality on the private part of her daughter, but did not lodge the complaint immediately, but only on discussion with the members of family, the complaint was lodged.

5] The statement of the victim girl recorded under Section 164 of the Cr.P.C. refer to the act of the Applicant in touching her stomach, chest and her private part and of also slapping her on the cheek. She has categorically stated that when her mother returned home, she narrated the incident and her mother visited her neighbours to question,

but since the Applicant was found consuming liquor, and his wife stated that her husband cannot be guilty of such an act, the complaint was lodged.

6] Merely because there is some inconsistency in the history given to the Doctor when the victim girl was medically examined, I find that this circumstance by itself is not sufficient to disbelieve the case of the prosecution. Ultimately the prosecution will have to establish its case before the trial court, but considering the inconsistency in the version of the complainant and the minor girl whose statement is recorded under Section 164 of the Code, I am not inclined to release the Applicant on bail.

7] However, it is to be noted that the Applicant is arrested on 06.07.2021 and facing the POCSO Act, the trial has to be concluded expeditiously, I deem it appropriate to direct the concerned Court to keep the timeline prescribed by the statute, in mind, and make every attempt to conclude the trial in expeditious manner.

In the wake of above,Bail Application is dismissed.

[BHARATI DANGRE, J]