



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

BAIL APPLICATION NO. 3140/2023

AJAY KUMAR SINGH BAIJU SINGH ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Adv. A.S. Khan i/b Adv. M.S. Ahmed for the Applicant.

Adv. Devyani Kulkarni for Respondent No.2

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

API D.R. Prabhu, APMC Police Station.

CORAM : M. S. KARNIK, J.

DATE : APRIL 29, 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 the second application for bail in respect of the offence punishable under Section 376(3) of the Indian Penal Code and Sections 5(j)(ii) and 6 of the Protection of Children from Sexual Offences Act, 2012, registered on 22/06/2021 vide C.R. No.227 of 2021 with APMC Police Station, Navi Mumbai. The earlier Bail Application No. 4500 of 2021 was withdrawn vide order dated 27/02/2023 with

liberty to apply for bail after 6 months.

3. The first informant is the mother of the victim. The victim and the applicant at the relevant time were 15 and 22 years of age respectively. The applicant was residing in the neighbourhood of the victim. The applicant at the relevant time was a married person. The applicant was arrested on 23/06/2021.

4. It is the accusation that the applicant was in a relationship with the minor victim. The first informant i.e. mother of the victim noticed some changes in the victim. She took her to a Doctor. It was realised that the victim was pregnant. The DNA report which has now come on record opines that the applicant and the victim are concluded to be the biological parents of the Femur Bone of the Baby. Learned counsel for the applicant submitted that the physical relations between the applicant and the victim were consensual. The child did not survive post-delivery.

5. Learned APP as well as learned counsel for respondent No.2 opposed the applicant and contended that the victim being minor her consent is immaterial. Learned counsel for

respondent No.2 expressed an apprehension that the applicant may tamper with the evidence if granted bail.

6. No doubt the consent is immaterial, the victim being 15 years of age. It needs to be factored that this is a second application for bail. Liberty to apply after 6 months was granted. I am informed that there is no progress in the trial. The applicant is now in pretrial custody since 23/06/2021 i.e. almost for 2 years and 9 months with no possibility of trial concluding in the near future. The applicant is not a flight risk. The applicant will suffer the consequences post-trial if found guilty. To allay the apprehension expressed by learned counsel for respondent No.2 that the applicant might tamper with the evidence after being released on bail, the learned counsel for the applicant, on instructions, submitted that the applicant would reside outside the limits of Navi Mumbai Municipal Corporation. The statement is accepted. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant - Ajay Kumar Singh Baiju Singh in connection with C.R. No.227 of 2021 registered with APMC 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 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.

(d) 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.

(e) Except for attending the trial, the applicant shall not enter the municipal limits of Navi Mumbai after being released on bail, till the trial concludes.

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

7. The application is disposed of.

8. I appreciate the valuable assistance rendered by Adv. Devyani Kulkarni who appeared on behalf of respondent No.2 in this proceeding. Her engagement may be

regularized by the Maharashtra State Legal Services Authority and may be paid the fees prescribed.

(M. S. KARNIK, J.)