

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3871 OF 2023

OMKAR TAYAPPA KANADE

...APPLICANT

VS

STATE OF MAHARASHTRA AND ANR.

...RESPONDENTS

....

Mr.Mithilesh Mishra i/by Mr.Agastya Desai, Advocate for the Applicant.

Ms. Sneha Mishra a/w Vrushabh Savla Advocate for Respondent No.2.

Ms. K. T. Hivrale, APP for Respondent-State.

API Dodmise, Yerwada Police Station is present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 17th APRIL 2024

P.C.:-

1. This is second application for bail. The previous application was rejected by this Court vide order dated 20th November 2019. Trial was expedited.

2. The applicant is arrested on 4th May 2018 in connection with C.R. No. 308 of 2018 registered with Yerwada Police Station, Pune for offences under Sections 376, 354, 354(A), 354(D) of the Indian Penal Code, 1860 and Sections 3, 4, 7 and 8 of the POCSO Act.

3. The case of the prosecution is that, the victim was subjected to forceful sexual intercourse. Medical examination was conducted. Statement

of victim and other witnesses were recorded. Charge-sheet was filed.

4. Learned Advocate for applicant submitted that, the applicant was aged about 20 years at the time of incident. The charge is framed on 29th November 2020. The applicant is in jail for a period of six years. There is no progress in the trial.

5. Learned APP and learned Advocate for Respondent No.2/victim submitted that, offences is of serious nature. Victim was aged around 14 years at the time of incident. There is sufficient evidence against the applicant. Medical evidence supports the prosecution case. The applicant had delayed the trial. Learned APP has produced the roznama which indicate that, there on various occasions the matter was listed before the Court, Advocate for the applicant was absent.

6. In rejoinder, learned Advocate for the applicant submitted that, applicant could not afford to engage lawyer and Advocate from legal aid panel was provided to him in the year 2023. The Advocate did not remain present to attend proceedings.

7. I have perused the roznama of the proceedings it does indicate that from July onwards the Advocate, who was appointed through legal aid did not remain present before the Court and hence, case was adjourned

repeatedly. However, on perusal of the roznama prior to July 2023 it is apparent that, on most of the occasions accused was not produced from jail. This Court vide order dated 20th November 2019, expedited the trial. Apparently, there is no progress in the trial. The applicant was aged around 20 years at the time of incident. He is in custody for six years. Considering the aforesaid circumstances, bail can be granted to the applicant.

ORDER

- (i) Criminal Bail Application No. 3871 of 2023 is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R. No. 308 of 2018 registered with Yerwada Police Station, Pune on executing PR. Bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.
- (iii) Applicant shall report concerned police station once in a month on first Saturday between 11:00 a.m. to 01:00 p.m. for a period of six months and thereafter, once in a three months on first Saturday of the month between 11:00 am to 01:00 p.m..
- (iv) Applicant shall not tamper with the evidence.
- (v) Applicant shall not approach the complainant/victim and any other witnesses in any manner.
- (vi) Application stands disposed off.

(PRAKASH D. NAIK, J.)