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

BAIL APPLICATION NO.4156 OF 2023

RAHUL RAJENDRA CHAVAN

..APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Adv. Sudeep Pasbola a/w Adv. Sankalp Vichare a/w Adv. Mrunal Bhide i/b. Adv. Ayush Pasbola for the applicant.

Mr. Swapnil V. Walve, APP for the State.

Adv. S. H. Singh for respondent No.2.

PI-S.B. Sable, I.O. and PSI-R. N. Loke, Pairavi, Sakinaka Police Station, Mumbai.

CORAM : M. S. KARNIK, J.

DATE : APRIL 23, 2024.

P.C. :

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for respondent No.2.

2. This is an application for bail in respect of the offence punishable under Sections 376, 201 of the Indian Penal Code (hereafter 'IPC' for short) and under Sections 4, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short) registered on 30.08.2023 vide FIR No.849 of 2023 with Sakinaka Police Station, Mumbai.

3. The victim at the relevant time was 17 years and 9 months of age. Considering that the victim was a minor her consent is immaterial. The victim and the applicant became acquainted with each other. The applicant was known to the victim's sister as both of them were members of one gym. The applicant and the victim became close friends. Learned counsel for the applicant submitted that there was consensual physical relationship between the applicant and the victim. As indicated earlier learned counsel for the applicant submitted that the victim was just three months short of attaining majority. It is further submitted that the FIR came to be filed when it was realised that the victim became pregnant. The victim underwent medical termination of the pregnancy.

4. Learned counsel for the victim who is now a major, filed an affidavit that the FIR was lodged by her out of misunderstanding and misconception of facts. It is stated that the dispute between the applicant and the victim is settled. It is further stated that the victim does not have any allegations or grievances against the applicant-accused

and that she does not wish to proceed with the FIR lodged against the applicant. It is further mentioned that the victim has no objection for grant of bail to the applicant-accused. The affidavit is taken on record and marked as Exhibit 'X' for identification.

5. Learned APP opposed the application for bail.

6. The applicant was arrested on 30.08.2023. The investigation is complete. The charge-sheet has been filed. Prolonging the custody of the applicant in the facts of the present case will only be by way of pre-trial punishment. Though learned APP opposed the application for bail, in the facts and circumstances of the present case I am inclined to enlarge the applicant on bail. Hence, the following order :-

ORDER

(a) The application is allowed;

(b) The applicant-Rahul Rajendra Chavan in connection with FIR No.849 of 2023 registered with Sakinaka Police Station shall be released on bail on his furnishing P.R. Bond of Rs.15,000/- with one or more sureties in the like amount;

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs.15,000/- 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) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer as well as the trial Court and shall keep them updated, in case there is any change;

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

(g) The applicant shall surrender his passport to the Investigating Officer.

7. The bail application is disposed of.

(M. S. KARNIK, J.)