

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.306 OF 2024

Rohit Ravindra Sonawale ... Applicant
Vs.
State of Maharashtra and another ... Respondents

Mr. S. S. Borkar a/w. Mr. Karan Bhanushali for Applicant.
Mr. Mayur S. Sonawane, APP for Respondent No.1-State.
Mr. Rajesh G. Bane for Respondent No.2 – Informant.
Mr. Chandrakant Pawar, PSI, Mahim Police Station, Mumbai.

CORAM : MANISH PITALE, J.
DATE : JUNE 21, 2024

P.C. :

. Heard Mr. Borkar, learned counsel appearing for the applicant, Mr. Sonawane, learned APP appearing for respondent No.1-State and Mr. Bane, learned counsel having instructions to appear for respondent No.2 (informant).

2. In the present case, the applicant is seeking bail in connection with FIR No.0491 dated 04.10.2023 registered at Mahim Police Station for offences under Sections 323, 326 and 377 of the Indian Penal Code, 1860 (IPC) and Sections 4, 5(m) and 6 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act). The applicant was arrested on 23.10.2023 and he has remained behind bars since then.

3. The FIR has been registered on the basis of the statement given by the informant as regards the manner in which the applicant allegedly sexually abused the victim. The victim, in the present case, is the son of the informant and the applicant - accused before this Court is cousin of the victim.

4. Bail applications filed on behalf of the applicant, one before filing of the charge-sheet and second after filing of the charge-sheet, were dismissed by the Sessions Court. The applicant has remained behind bars for more than eight months.

5. The learned counsel appearing for the applicant submits that the applicant used to live with the family of the informant and that the accusation has its roots in a misunderstanding. It is brought to the notice of this Court that the victim is an intellectually challenged child and the disability certificate is at page 108 of the present application. He further submits that the informant, arrayed as respondent No.2, has been served.

6. The learned counsel appearing for the respondent No.2 submits that he has instructions to state that the allegations against the applicant were levelled on the basis of a misunderstanding and that upon reflection, the respondent No.2 (informant) would have no objection to bail being granted to the applicant.

7. Learned APP submits that the statement leading to registration of the FIR demonstrates the serious allegations levelled against the applicant, leading to the aforesaid offences being registered under the IPC and the POCSO Act. It is submitted that the victim indeed suffers from intellectual disability and this is evident from the disability certificate on record.

8. The disability certificate shows that the victim appears to have 50% disability in relation to his brain. The allegations levelled against the applicant indeed indicate the ingredients of the offences registered against him as per the FIR.

9. The investigation is complete and charge-sheet has been filed. Considering the nature of the allegations made against the applicant and

the alleged sexual abuse suffered by the victim, in the medical examination of the victim, nothing much has come on record. During the course of investigation, the medical examination of the applicant has been conducted.

10. The learned counsel for the applicant has specific instructions to state that the applicant would stay away from the informant and his family and he would abide by any condition that this Court may impose, while favourably considering the present application.

11. This Court has taken into consideration the aforementioned circumstances. The applicant has already undergone more than eight months of incarceration. The charge-sheet is already filed and in view of the specific statement, on instructions, made on behalf of the respondent No.2 and considering the disability certificate of the victim on record, as also the medical examination report, this Court is inclined to allow the application, subject to specific conditions being imposed on the applicant.

12. In view of the above, the application is allowed in the following terms:-

- (A) The applicant shall be released on bail in connection with F.I.R. No.0491 of 2023 registered at Mahim Police Station, Mumbai on furnishing P.R. Bond of Rs.25,000/- [Rupees Twenty Five Thousand only] and one or two sureties in the like amount, to the satisfaction of the trial Court;
- (B) The applicant shall report to Mahim Police Station on first Monday of each month, between 10:00 a.m. and 12 noon during the pendency of the trial;
- (C) The applicant shall not enter jurisdiction of Mahim Police Station, except for attending the police station, as directed

hereinabove;

- (D) The applicant shall not contact the informant and the victim by any means during the pendency of the trial;
- (E) The applicant shall not tamper with the evidence of the prosecution. He shall not influence the informant, witnesses or any other person concerned with the case;
- (F) The applicant shall co-operate with the proceedings before the trial Court and he shall attend each and every date, unless specifically exempted by the trial Court;
- (G) Upon being released on bail, within two weeks, the applicant shall communicate the details of his contact number and residential address to the trial Court.

13. In case any of the aforesaid conditions are violated, the present order would be liable to be cancelled. It is also clarified that the observations made in this order are limited to the question of grant of bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

14. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab