

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

BAIL APPLICATION NO. 2040 OF 2024

Yogesh Ramchandra Shinde ..Applicant
VS.
State of Maharashtra and anr. ..Respondents

Mr.Anandmaya Dhorde, for the Applicant.
Ms.Sakhsee P. Chavan, for Respondent No.2.
Ms.P.P. Bhosale, APP for the State- Respondent No.1.
Dr. Ashok M. Dongare, API Pimpri police station present.

**CORAM : M. S. KARNIK, J.
DATE : NOVEMBER 22, 2024**

P.C. :

1. Heard learned counsel for the applicant, learned APP and learned counsel appearing for the respondent no.2 appointed through legal aid.
2. This is an application for bail in respect of the offence punishable under sections 376(2)(n) of the Indian Penal code and under section 3, 4, 5, 6, 7 & 8 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO', for short) registered on 06/01/2021 vide C.R. No.16 of 2021 with Pimpei police station. The applicant was arrested on 08/01/2021.

3. On 10/11/2023, this Court passed the following order.

“1. Learned counsel for the applicant on instructions seeks leave to withdraw this application with liberty to file a fresh application after three months or after the evidence of the child witness under Section 35(1) of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) is recorded by the trial Court, whichever is earlier.

2. Considering that the applicant is in custody from 08.01.2021, learned trial Judge is requested to record the evidence of the child witness in view of the mandate of Section 35(1) of the POCSO Act expeditiously and in any case within a period of three months from the date which this order is placed before the trial Court for its consideration.

3. The application is allowed to be withdrawn with liberty as prayed for and disposed of accordingly.

4. I appreciate the assistance rendered by Mr. Saakshat Relekar, learned Advocate, who appeared on behalf of respondent no.2 in this proceeding. Learned advocate may be paid the fees as prescribed by the Legal Aid Services Authority or if not prescribed, the same is quantified at Rs.5,000/-.

4. I am informed that the victim is under cross examination.

Vide order dated 10/11/2023, the trial Court was requested to record the evidence of the child witness in view of the mandate of Section 35(1) of the POCSO Act expeditiously and in any case within a period of three months from the date of placing that order before the trial Court for its consideration. Though on some occasions before the trial Court, the advocate for the accused had asked for adjournment, the delay is not fully attributable to the applicant.

5. Learned counsel for the applicant submits that the applicant is a resident of Kopergaon which falls in Ahmednagar district. So far as the victim is concerned, she is residing along with her mother at Pune. Learned counsel for the applicant submits that he has instructions to state that the applicant shall not enter Pune district till the trial concludes except for attending the trial on the dates fixed.

6. Learned APP as well as learned counsel for the respondent no.2 opposed the application. It is submitted that the allegation levelled against the applicant, who is father of the victim who was at the relevant time 13 years of age, is very serious.

7. Considering that the applicant is in custody from 08/01/2021, for a period of more than 3 years and 10 months, with the possibility of trial concluding any time soon in the near future appearing remote, I am inclined to enlarge the applicant on bail. The victim is already under the cross examination. Learned counsel for the applicant on instructions of the applicant states that no unnecessary adjournments will be sought by the applicant and the applicant will co-operate with

the trial.

8. The allegations no doubt are serious, but considering the period applicant spent in custody, I am inclined to enlarge the applicant on bail but by imposing stringent conditions. Hence, the following order.

ORDER

(a) The application is allowed.

(b) The applicant-Yogesh Ramchandra Shinde in connection with C.R. No.16 of 2021 registered with Pimpri 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 report to the investigating officer once in a month on Saturday of the first week between 11.00 a.m. and 1.00 p.m.

(d) The applicant shall not enter Pune district till the conclusion of the trial except for the purpose of attending the investigating officer and attending the trial.

(e) 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.

(f) 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.

(g) The applicant shall attend the trial regularly.

(h) It is made clear that if there is any attempt on the part of the applicant to pressurize or intimidate the victim or any of the witnesses, the same shall be viewed very seriously inviting the consequence of cancellation of this bail.

9. The application is disposed of.

10. I appreciate the assistance rendered by Ms.Sakshee P Chavan, learned Advocate, who appeared on behalf of respondent no.2 in this proceeding. Learned advocate may be

paid the fees as prescribed by the Legal Aid Services Authority or
if not prescribed, the same is quantified at Rs.5,000/-

(M. S. KARNIK, J.)