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

BAIL APPLICATION NO. 1397 OF 2024

Pankaj Chaganbhai Gohil

...Applicant

Versus

State of Maharashtra and Another

...Respondents

Mr. Tapan Thatte with Mr. Zahir Mulla with Mr. Rajdeep

Sitapure i/b Mohammad S. Mulla, *for the Applicant.*

Ms. Megha S Bajoria, *APP for the Respondent-State.*

Ms. Supriya Bagul h/f Ms. Rani Jadhav, *for the Respondent*
No. 2.

Mr. Santosh J. Mane, *P. I. Vinoba Bhave Nagar, Police*
Station, Mumbai, Present.

CORAM DR. NEELA GOKHALE, J.

DATED: 23rd DECEMBER 2025

PC:-

1. The Applicant seeks his release on bail in connection with C.R. No. 268 dated 05th December 2023 registered with the Vinoba Bhave Nagar Police Station, Mumbai for the offences punishable under Sections 376(2)(n), 354, 323 read with Section 34 of the Indian Penal Code, 1860, as well as

Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO').

2. There are in all three accused. The present Applicant is accused No. 3. The Applicant had made an Application seeking bail before the Special Court under POCSO of Greater Bombay, however, by order dated 14th March 2024, the Bail Application was rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

3. The facts of the case, in brief, as discerned from the FIR are that the victim was 17 years old at the time of the incident. The victim's mother is a nurse by profession and was on duty during the period of the incident. Her work hours were very difficult because of the Covid-19 Pandemic. Two of her women friends, whom the victim addressed as aunts, were living with her. These two friends used to order dinner and alcoholic drinks in the evening when the victim's mother was not in the house. They used to force the victim to consume liquor in spite of her resistance. On one occasion, one of the

friends who is also an accused forced her to drink alcohol on account of which the victim was very sleepy and felt drugged. When she woke up in the morning, she felt very heavy and realised that her body was violated. She was very scared and hence did not confide in her mother. This continued for some time and it is alleged in the FIR that every time the aunts used to force the victim into drinking alcohol. She has always refused. However, after a few days the said aunts showed her some pictures on their mobile phone in which there were nude images of the victim and also in a compromising position with the Applicant. Finally, the victim was able to confide in her mother who was in Kerala at that point of time for some business work and thereafter her mother made a complaint with the police and an FIR was registered.

4. The Applicant was arrested on 9th December 2023. Mr. Thatte, the learned Counsel appearing for the Applicant submits that in the entire FIR and the supplementary statement, there is no overt act alleged against the present

Applicant. The victim herself has stated in her statement that she has always refused but her grievance is that the two aunts had already insisted and were trying to force her to drink alcohol. The said aunts also threatened her that she should have physical relations with the men that they brought home. One of them was the Applicant. The girl has stated that she was shown photographs of the Applicant along with her in a compromising position. However, Mr. Thatte submits that there is nothing on record to justify any allegations. He also submits that the medical examination also does not indicate any violence. Hence, the learned Counsel for the Applicant prays that the Applicant be released on bail.

5. Ms. Bajoria, the learned APP representing the State opposes the Bail Application and submits that the offence is serious. The girl was a minor at the time of the incident and she has claimed to be in a drugged condition and hence she is unable to recall the acts of the present Applicant while she was in such state. She also submits that the 164 statement

recorded of the victim is consistent with the statement recorded before the police. In these circumstances, she prays that the Bail Application be rejected.

6. Ms. Supriya Bagul appearing for the Respondent No. 2 supports the case of Ms. Bajoria, and she also resists the Bail Application. She submits that the victim's mother is receiving some threatening calls from unknown numbers made on behalf of the present Applicant. She submits that the mother has made an application before the police in respect of such threats.

7. I have heard learned Counsel for the respective parties and perused the record of the case with their assistance.

8. A plain reading of the FIR and the supplementary statement recorded of the victim does not implicate the present Applicant at all. The only reference to the name of the present Applicant is that there was one photograph which was shown to her in the morning by her aunts in which the

present Applicant was pictured in a compromising condition with her. The victim also narate that she may have consumed alcohol on some occasion due to which she fell in a deep sleep and she was unable to understand as to whether anybody had violated her at night. She submits that she was scared and hence she was unable to confide in her mother.

9. Ms. Bajoria seeks instructions from the Investigating Officer and has admitted that there is no image or photograph recovered from the mobile phone of the accused. However, she submits that the FSL report is still awaited. The statement of the victim recorded by the Magistrate under Section 164 of the Code of Criminal Procedure, 1973, is consistent with the statement which she has given to the police. Even in the statement under 164, the victim has merely said that there was insistence from the two aunts and the present Applicant to allow the present Applicant and other men to have sexual relations.

10. The Applicant is in custody from 09th December 2023 and as yet the charge is not framed. Considering that the statement of the victim is not yet recorded before the Trial Court, I deem it appropriate to impose stringent conditions on the Applicant, while enlarging him on bail. Accordingly, the Bail Application is allowed and it is ordered as under:-

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two sureties in the like amount;
- ii) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;
- iii) The Applicant shall also attend the Police Station concerned once in a month on first Monday

between 11:00 a.m. to 02:00 p.m., till the charges are framed;

iv) If the Applicant has not deposited his passport, if any, the Applicant shall deposit the same with the Police Station concerned;

v) The Applicant shall not leave India, without the permission of the Trial Court;

vi) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vii) The Applicant shall inform his latest place of residence and contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Police Station concerned;

viii) The Applicant to co-operate with the conduct of the trial;

ix) Any infraction of the aforesaid conditions shall entail cancellation of bail.

x) The Applicant shall not enter into the jurisdiction of Vinoba Bhave Nagar Police Station, Kurla West during the pendency of the trial.

11. Application is allowed in the above terms and is accordingly disposed of.

12. It is made clear that the observations made herein are prima facie and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(DR. NEELA GOKHALE, J)