

Ajay

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

CRIMINAL BAIL APPLICATION NO. 3037 OF 2024

Basan Motikant Mishra

.. Applicant

Versus

The State of Maharashtra and Anr.

.. Respondents

.....

- Mr. Prashant Pandey a/w. Mr. Dinesh Jadhvani, Ms. Ridhima Mangaonkar, Mr. Rahul Sinkar and Mr. Krishna Joshi, Advocates i/by W3LEGAL LLP for Applicant.
- Ms. Megha S. Bajoria, APP for Respondent No.1 – State.
- Mr. Kshitish Shukla, Advocate for Respondent No.2.

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 05, 2025.

P.C.:

1. Heard Mr. Pandey, learned Advocate for Applicant; Ms. Bajoria, learned APP for Respondent No.1 – State.

2. This is an Application under Section 39 of the Code of Criminal Procedure, 1973 seeking Regular Bail in connection with C.R.No.1050 of 2020 registered with Kurar Police Station for the offences punishable under Sections 376, 354-D, 504 and 506 of Indian Penal Code, 1860 (for short ‘**IPC**’) and Sections 4, 6 and 10 of the Protection of Children from Sexual Offences Act, 2012 (for short ‘**POCSO**’).

3. The Application for regular bail is argued before me by Mr. Pandey, learned Advocate for Applicant. He would inform the Court that Applicant is incarceration for the past 3 and ½ years.

4. In so far as the trial is concerned, Ms. Bajoria, learned APP would inform the Court that First Informant/victim is in the witness box at present as the prosecution witness and her cross-examination is underway being conducted by the Applicant himself for the post 4 dates of hearing. It is not yet completed. Grievance of the Applicant is that in November, 2024 this Court directed expeditious disposal of the trial within six months.

5. Mr. Pandey would point out that on the various dates of hearing post the aforesaid directions at least on 6 occasions, Applicant was not produced on the dates of hearing. Be that as it may, considering that the present case is under the offence of IPC alongwith POCSO, I am of the impression that in view of the present dispensation wherein the Complainant is being cross-examined at present, considering the present Application at this stage would be detrimental to her prospects as it would materially alter the situation. Hence I have impressed upon Mr. Pandey to take appropriate instructions and suggested that the cross-examination of the Complainant should be completed by Applicant pursuant to which the present Application for bail shall be considered by the Court.

6. Mr. Pandey would submit that production of the Applicant in Court on the various scheduled dates is after every fortnight and that is adding to the delay. Though he has made other grievances also, those grievances at this stage are not considered by this Court, considering that they are on merits of the matter. He would persuade the Court to pass appropriate directions so that the cross-examination of the Complainant is over and the present Application is immediately heard by this Court. Submissions made by Mr. Pandey as also Ms. Bajoria, learned APP are taken into account.

7. Considering the present situation as delineated herein above, Ms. Bajoria, learned APP is directed to inform the Investigating Officer and prosecution Agency that they will ensure that Applicant is presented before the Trial Court on all future dates of hearing. Applicant shall also cooperate and ensure that he attends the hearings. Equally the prosecution witness namely the victim whose cause is espoused through her mother through Advocate Mr. Shukla is also directed to ensure that she shall remain present on all dates. He would infact inform the Court that victim has been diligently remaining present on all the hearing dates. If that be the case, learned Trial Court is requested by this Court to ensure that cross-examination of the victim is completed as expeditiously as possible and in any event within the next few dates of hearing as deemed fit by the Trial Court without expanding and delaying the same.

8. Needless to state that if the Trial Court feels that cross-examination can be completed even on a day to day basis considering the exigencies of the case as also according to the convenience of the Trial Court, the Trial Court may do so accordingly. This is only to ensure that once the cross-examination of the victim is completed by the Trial Court, it would be appropriate for this Court to take up hearing of the present Bail Application on its own merits.

9. Trial Court shall act on presentation of a server copy of this order by the learned Advocate for Applicant.

10. Liberty to apply to Applicant after completion of cross-examination of victim – prosecution witness.

11. List the Bail Application on Board for directions on **05th March 2025** to apprise the Court about the status.

[MILIND N. JADHAV, J.]

Ajay

AJAY
TRAMBAK
UGALMUGALE
Digitally signed by
AJAY TRAMBAK
UGALMUGALE
Date: 2025.02.05
18:46:04 +0530