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

BAIL APPLICATION NO.3061 OF 2024

Bablu Omprakash Rangu	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondent

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Mr. T.A. Thakur for the applicant.

Mrs. Shilpa G. Talhar, APP for respondent No.1-State.

Ms. Priyanka Brahmdev Chavan for respondent No.2-victim (appointed as Legal Aid).

CORAM : AMIT BORKAR, J.

DATED : JULY 31, 2025

P.C.:

1. Through this bail application filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C."), the applicant seeks regular bail in Special POCSO Case No.322 of 2024 arising out of Crime Register No.441 of 2024 registered at Oshiwara Police Station, Mumbai. The case pertains to offences under Sections 376(2)(n), 376-C, 354, and 506 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") read with Sections 4, 6, 8, 10, and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as "POCSO Act").

2. As per the prosecution case, the mother of the victim child aged approximately 10 years filed a complaint stating that her

daughter was given a mobile phone for attending online classes. The informant noticed that her daughter had been upset for the past few days. When enquired about the reason for her distress, the victim did not disclose anything to her mother. On 7th April 2024 at approximately 11:30 p.m., while the victim was using her mobile phone, the informant took the phone and discovered love messages on it. Upon questioning, the victim revealed that about a year earlier, Bablu, who is the son of her maternal uncle Omprakash, had sent inappropriate messages to others and was threatening and blackmailing her using those messages. He had also been touching her chest inappropriately. The accused had warned the victim that if she disclosed this matter to anyone, he would tell everyone that the victim herself had initiated these acts. Due to this threat, the victim had not informed anyone about the incidents.

3. The prosecution further alleges that after some days, the accused demanded that the victim send photographs of her private parts, which she complied with, though she could not recall to which number these photographs were sent. When questioned about physical relations, the victim stated that a few days prior, when her mother was away and her grandmother was sleeping in the bedroom, the accused threatened her and forcefully established physical relations with her in the hall of the house. The victim further disclosed that the accused had committed such forceful acts on one or two more occasions thereafter.

4. The learned Advocate appearing for the applicant has submitted that his client has been falsely implicated in this case.

He argues that the statements given by the victim girl contain several inconsistencies. The mobile phone mentioned in the First Information Report has not been seized by the investigating agency. No specific details regarding the messages allegedly sent by the applicant have been placed on record. The learned counsel further contends that the essential ingredients of Section 376 IPC have not been established, as there was no actual sexual intercourse as defined under the law.

5. On the contrary, the learned Additional Public Prosecutor along with the learned Advocate appointed to represent the victim (respondent No.2) have submitted that the applicant is the maternal uncle of the victim. The victim was 10 years old at the time of the alleged incident. In her statements recorded under Sections 161 and 164 Cr.P.C., the victim has clearly stated that the applicant, aged approximately 30 years, had sent obscene messages to some persons and began touching her chest inappropriately while threatening her not to disclose these acts to anyone. When the victim's mother enquired whether the applicant had committed sexual intercourse with her daughter, the victim initially could not understand the meaning. However, after her mother explained what sexual intercourse meant, the victim disclosed that such acts had indeed been committed by the applicant when she and her grandmother were alone at home.

6. In the statement recorded under Section 164 Cr.P.C., the victim has disclosed that the applicant had hacked into her mobile phone and was compelling her to send photographs of her private parts. The medical history disclosed to the doctor on 9th April

2024 also reveals that the victim had stated that the applicant used to harass her. The prosecution submits that considering the applicant is a relative of the 10-year-old victim, the possibility of him pressurizing and causing harm to the child cannot be ruled out if he is released on regular bail. Therefore, it is prayed that the present bail application should be rejected.

7. This Court has carefully considered the submissions made by both sides, the material on record, and the applicable legal provisions governing bail in cases involving sexual offences against children.

8. The present case involves grave and heinous offences under the POCSO Act and IPC against a minor child of 10 years. The charges include penetrative sexual assault under Section 4 of the POCSO Act, aggravated penetrative sexual assault under Section 6, sexual harassment under Section 8, abetment of offences under Section 10, and sexual harassment under Section 12 of the POCSO Act. These are compounded by charges under Sections 376(2)(n), 376-C, 354, and 506 IPC. The very nature of these offences demonstrates their extreme gravity and the vulnerability of the victim, being a minor child.

9. From the material on record, a prima facie case against the applicant stands established. The victim's statements recorded under Sections 161 and 164 Cr.P.C. are consistent regarding the core allegations. The victim, being a child of tender age, has clearly narrated the incidents of sexual assault, harassment, and threats. The medical examination conducted on 9th April 2024

supports the victim's version. The fact that the victim disclosed these incidents only after persistent questioning by her mother, and her initial reluctance due to threats from the applicant, demonstrates the genuineness of her disclosure.

10. The applicant is the maternal uncle of the victim, which establishes a position of trust and authority over the child. Sexual offences committed by persons in positions of trust are treated with greater severity under the law. Section 376(2)(n) IPC specifically deals with sexual assault by a relative, and the enhanced punishment reflects the legislative intent to deal stringently with such cases. The breach of trust makes the offence more heinous and deplorable.

11. Given the family relationship between the applicant and the victim, there exists a significant risk of the applicant influencing or pressurizing the victim and other family members if released on bail. The victim is a child who may be easily influenced or intimidated. The applicant's release may result in the victim being subjected to further trauma and pressure to change her statement or withdraw the complaint. This Court cannot ignore the possibility of evidence tampering and witness intimidation.

12. The primary consideration in cases involving child sexual abuse is the protection of the victim from further trauma and harm. The victim has already suffered immense psychological trauma due to the alleged acts of the applicant. Her release on bail may lead to secondary victimization through direct or indirect pressure from family members or the community. The Court has a

duty to ensure that the victim feels safe and secure to participate in the trial proceedings without fear or intimidation.

13. The submission that the mobile phone was not seized is not sufficient to discredit the victim's testimony. In cases of sexual offences against children, the testimony of the victim is of paramount importance, and corroboration, though desirable, is not always mandatory. The argument regarding inconsistencies in the victim's statement is not substantiated with specific details, and minor inconsistencies in the statement of a child victim cannot be grounds for disbelieving her core allegations.

14. The contention that ingredients of Section 376 are not fulfilled is misconceived. The victim's statements clearly indicate penetrative sexual assault as defined under the POCSO Act. The definition of sexual assault under the POCSO Act is broader than that under the IPC and covers various forms of sexual abuse.

15. Granting bail in cases involving sexual offences against children sends a wrong message to society and may encourage similar offences. The Court must consider the public interest and the need to maintain public confidence in the judicial system. The deterrent effect of keeping such accused persons in custody during trial serves the larger interest of protecting children in society.

16. After careful consideration of all aspects, this Court finds that the present case involves serious offences against a minor child, and there are reasonable grounds to believe that the accusations against the applicant are prima facie true. The release of the applicant on bail at this stage would not be in the interest of

justice and may cause further harm to the victim. The protection of the child victim and ensuring a fair trial are paramount considerations that outweigh the applicant's right to personal liberty.

17. In view of the above reasons, the bail application filed by the applicant under Section 439 Cr.P.C. is hereby rejected.

(AMIT BORKAR, J.)