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

BAIL APPLICATION NO.3687 OF 2024

Mohammed Asif Munir Siddiqui	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

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Ms. Priyanka B. Chavan for the applicant (Appointed as Legal Aid Counsel).

Mr. Sagar R. Agarkar, APP for the State-respondent No.1.

Ms. Puja Yadav for respondent No.2 (Appointed as Legal Aid Counsel).

Mr. Bhagwan Pawar, PSI, Kurar Police Station is present.

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, the accused seeks regular bail in connection with First Information Report No. 70 of 2020 registered at Kurar Police Station. The case involves charges under Sections 342, 354, 377, 504 and 506 of the Indian Penal Code, 1860 and Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012.

2. Upon examining the charge sheet, it is found that the complaint was filed by the mother of a 7-year-old victim boy on

8th February 2020, the same day when the alleged incident took place. According to the complaint, the informant stated that around 2:00 p.m., she went looking for her son who had gone out to play. When she asked other children in the area about her son's whereabouts, they told her that he had gone to the house of Asif Siddiqui, who is the accused in this case. The informant then went to the accused's house and found the door closed. She knocked on the door and called out to her son, but no one opened the door. The informant then called her relatives who lived nearby, and they all kept knocking on the door for about 10-15 minutes. When the door still did not open, the informant and her relatives pushed the door, which then opened.

3. Upon entering, the informant saw her son near the door, crying, while the accused was the only other person in the room. The informant picked up her son, who while crying, pointed towards his buttocks with his finger. The informant noticed that the victim's pants were wet, so she removed them. This caused the victim to cry loudly as that area was causing him great pain. The informant also observed that the victim's buttocks were wet. Based on these observations, the informant suspected that the accused had committed unnatural sexual intercourse with her minor son. To prevent the accused from running away, the informant locked the door of the accused's house from outside. The accused then started using abusive language and threatened that he would turn on the gas in his house and burn the entire area. He also started hitting his head against the wall and injured himself. The police then arrived at the scene, after which the informant and others

went to the police station where the complaint was filed.

4. The learned counsel representing the applicant submitted that the victim is a specially-abled child who cannot speak. However, the prosecution claims that based on the child's gestures, the parents filed a complaint alleging that the victim was found in a room at his uncle's residence. The defence argues that the way the incident is described by the prosecution is not supported by medical evidence. The forensic report shows that no traces of blood or semen were found. The defence further submitted that the applicant was arrested on 8th February 2020 and has been in custody for more than five and a half years. The charges have not yet been framed, and it appears unlikely that the trial will conclude in the near future. Therefore, regular bail is sought.

5. On the other hand, the learned Additional Public Prosecutor, along with the learned counsel representing the victim, opposed the bail application. They drew attention to the statements of the victim recorded under Section 164 of the Criminal Procedure Code and the statement of the victim's mother, which describe the incident in detail. The prosecution argued that considering the serious nature of the allegations, the applicant does not deserve to be granted bail.

6. Having heard the learned counsels for both sides and having perused the material on record, this Court finds that the present case warrants grant of bail to the applicant on the following grounds:

7. The most compelling factor in favour of granting bail is the

unconscionably long period of incarceration that the applicant has already undergone. The applicant was arrested on 8th February 2020 and has been in continuous custody for over five and a half years. During this entire period, the case has made virtually no progress, and even the basic step of framing of charges has not been completed. Such prolonged detention without trial is violative of the fundamental principle that "bail is the rule and jail is the exception" as laid down by the Supreme Court in numerous pronouncements.

8. The continued detention of the applicant for such an extended period without any substantial progress in the trial proceedings amounts to a clear violation of his fundamental right to speedy trial guaranteed under Article 21 of the Constitution of India. The speedy trial is an essential component of reasonable, fair and just procedure guaranteed by Article 21. The unreasonable delay in the present case has transformed the detention from protective to punitive, which is impermissible under our constitutional scheme.

9. Despite the passage of more than five years, the prosecution has failed to make any meaningful progress in the case. The charges have not even been framed, which indicates lack of readiness on the part of the prosecution to proceed with the trial. The investigating agency and the prosecution have had sufficient time to complete all necessary formalities, collect evidence, and prepare for trial, yet they have failed to do so. This inordinate delay cannot be attributed to the accused and should not result in his continued detention.

10. While the Court is mindful of the serious nature of the allegations and the need to ensure that justice is done to the victim, it must also balance the competing interests of individual liberty and public safety. After more than five years of incarceration, the balance tilts heavily in favour of personal liberty, especially when there has been no progress in the trial and no immediate prospect of conclusion of proceedings.

11. Hence, the following order is passed.

- i) The bail application is allowed;
- ii) The applicant Mohammed Asif Munir Siddiqui is directed to be released on regular bail in connection with FIR No.70 of 2020 registered with Kurar Police Station for offences punishable under Sections 342, 354, 377, 504 and 506 of the Indian Penal Code, 1860 and Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012, upon furnishing cash surety of Rs.10,000/- (Rupees Ten Thousand Only) and executing a Personal Recognizance (P.R.) Bond in the like amount, within a period of eight weeks from the date of this order, subject to the following conditions:
 - a) The applicant shall report the Kurar Police Station on first Monday of every third month between 10.00 a.m. to 12.00 noon, until further orders.
 - b) The applicant shall not, in any manner, contact the victim or her family members, directly or indirectly.

- c) The applicant shall not enter the locality where the victim resides, and shall maintain a distance of at least 500 meters from the victim's residence.
 - d) The applicant shall not tamper with the evidence or attempt to influence any witness.
 - e) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
 - f) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
 - g) The applicant shall not indulge in any criminal activity during the pendency of the trial.
 - h) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.
- 12.** The bail application is allowed and disposed of.

(AMIT BORKAR, J.)