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

BAIL APPLICATION NO. 849 OF 2025

Unnikrishnan Rajeevkumar Bhaskaran

@ Rajiv Unnikrishnan ... Applicant

V/s.

The State of Maharashtra and another ... Respondents

Mr. Nishad Nevgi a/w. Ms. Samaa Shah and Ms. Gargi Nandapurkar, i/b. Ms. Samaa Shah and Mr. Junaid Badgujar for applicant.

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

Mr. Suraj S. Ghogare a/w. Mr. Sirajuddin Shaikh and Mr. Manish Singh, i/b. Mr. D. P. Kamath for respondent No.2.

Mr. Bajrang Desai, PSI, Samata Nagar Police Station, Mumbai.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 06, 2025

P.C.:

1. By the present application filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant seeks regular bail in connection with Crime Register No.634 of 2021 registered with Samata Nagar Police Station. The applicant has been booked for serious offences under Sections 376(2)(f), 376(2)(i), 376(2)(n), 500, and 506 of the Indian Penal Code, 1860; Sections 4, 6, 8, and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the "POCSO Act"); and Sections 43A

and 67A of the Information Technology Act, 2000.

2. Learned advocate appearing for the applicant has drawn the attention of this Court to the deposition of the victim and her mother, as recorded during trial. It is submitted that the statements do not prima facie disclose ingredients of the graver charges under Sections 4 and 6 of the POCSO Act, which relate to penetrative sexual assault and aggravated penetrative sexual assault. According to the learned advocate, at the highest, the allegations would attract offences under Sections 8 and 12 of the POCSO Act, which are of lesser gravity. It is further pointed out that the applicant has been in custody since 2nd September 2021, and has undergone incarceration for nearly 3 years and 11 months. He therefore submits that in view of the fact that the key prosecution witnesses, the victim and her mother, have already been examined, there is no likelihood of tampering with their testimony, and the applicant may be enlarged on bail.

3. On the other hand, learned APP for the State and the learned counsel for Respondent No.2 have opposed the bail application. It is their submission that the allegations against the applicant are grave and concern offences against a minor girl. It is submitted that the evidence recorded in part during the trial is yet to be weighed in totality by the learned Trial Court, and therefore, this Court should not undertake a detailed scrutiny of such evidence at this stage. They further contend that considering the nature of allegations and the impact of such offences on the minor victim, no indulgence should be shown in granting bail at this stage.

4. I have carefully perused the charge-sheet and considered the material placed on record. It is an admitted position that the applicant is in custody since 02.09.2021, and has remained incarcerated for a period exceeding 3 years and 11 months. The charge-sheet has already been filed, and the victim and her mother, the primary witnesses, have been examined during the trial. The submission of the applicant that the statements of the victim do not disclose the essential ingredients of Sections 4 and 6 of the POCSO Act shall no doubt be considered on its own merit at the stage of final judgment by the Trial Court. However, for the limited purpose of considering bail, the fact that the gravest part of the evidence has already been recorded and that no further risk of influence over such witnesses exists, is a relevant factor.

5. It is also well settled that while deciding bail applications, the Court must strike a balance between the right of the accused to personal liberty under Article 21 of the Constitution of India, and the need to ensure a fair trial. In the present case, the applicant has undergone substantial period of custody, and the prosecution does not point out any instance of the applicant attempting to tamper with evidence or delay the trial. The trial is likely to take further time for completion. Continued incarceration, particularly in absence of any further role of the accused in disturbing the trial process, would amount to pre-trial punishment, which is impermissible.

6. Considering the totality of circumstances, including the nature of evidence recorded, the stage of trial, and the period of incarceration already undergone by the applicant, I am of the

considered view that the applicant is entitled to be released on bail, subject to appropriate conditions.

7. Hence, the following order is passed:

8. The applicant Unnikrishnan Rajeevkumar Bhaskaran @ Rajiv Unnikrishnan is directed to be released on regular bail in connection with Crime Register No.634 of 2021, upon furnishing a personal bond of ₹ 25,000/- (Rupees Twenty-five Thousand only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

- a) The applicant shall report Samata Nagar Police Station once in three months between 10.00 a.m. to 12.00 noon, until further orders.
- b) The applicant shall not tamper with the evidence or attempt to influence any witness. He shall not contact the victim or her family members.
- c) The applicant shall not enter the limits of Samata Nagar Police Station during the pendency of the trial, except for the purpose of attending the police station.
- d) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
- e) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
- f) The applicant shall not indulge in any criminal activity during the pendency of the trial.

g) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

9. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)