



Diksha Rane

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

BAIL APPLICATION NO.1155/2023

FAHAD FAROOQUE MEMON

..APPLICANT

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

Adv. Nitin Shejpal a/w. Adv. Akshata Desai, Adv. Sakshi Jha
for the applicant.

Mr. P. H. Gaikwad, APP for the State.

Adv. Vilasini Balasubramaniam for the respondent no.2.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 6, 2023.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.
2. This is an application for bail in respect of the offence punishable under Sections 363, 366, 366A, 370, 376, 376(3) 120-B read with 34 of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short) registered on 30/10/2022 vide C.R. No.144/2022 with Shrivardhan Police Station, Raigad.
3. The allegation is that the victim who is 17 years old

girl was forced to marry one of the co-accused. The date of such forced marriage is 24/10/2022. So far as the present applicant is concerned, the accusation against him is that he is a 'Maulana' who performed such marriage.

4. Learned APP as well as learned counsel for the respondent no.2 submitted that knowing fully well that the victim is minor, the marriage was illegally performed by the present applicant. It is further submitted that the Maulana is supposed to perform the marriages in Masjid but still then the applicant went to the house of the accused to perform the marriage.

5. At the relevant time, the victim was 17 years of age. The applicant was arrested on 13/12/2022 and now is in custody for more than eleven months with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk.

6. Considering the nature of accusations against the applicant, prolonging the custody would amount to a pre-trial punishment. The applicant will face the consequences

post trial if the charges levelled against him are proved. In the facts and circumstances of the case, the applicant can be enlarged on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.

- (b) The applicant- Fahad Farooque Memon in connection with C.R. No.144/2022 registered with Shrivardhan Police Station, Raigad, shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.

- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

- (e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(g) The applicant shall surrender his passport, if any, to the investigating officer.

7. The application is disposed of.

8. I express my gratitude for the able assistance rendered by advocate Ms. Vilasini Balasubramaniam representing the respondent no.2. Her engagement be regularised by the Legal Services Authority.

(M. S. KARNIK, J.)