



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 372 OF 2022

Sunil Vyankatesh Vadar ... Applicant
Versus
The State of Maharashtra and Anr. ... Respondents

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Mr. Bhanudas L. Jagtap, for the Applicant.

Mr. A. A. Palkar, APP, for Respondent No.1-State.

Ms. Vilasini Balsubramanian, Appointed Advocate, for Respondent No.2.

Mr. V.M. Khilare, PSI, Oshiwara Police Station, Mumbai, present.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 8th FEBRUARY, 2024.

P.C.

This is an application seeking bail.

2 Heard learned Counsel for the applicant, learned APP as well as learned Counsel for the victim.

3 The applicant is being prosecuted in connection with C.R. No. 665 of 2021, registered with Oshiwara Police Station, Mumbai, for the offences punishable under Sections 354, 354A, 354B, 354D,

341, 504, 509, 506 of the Indian Penal Code (“IPC”) and Sections 10 and 12 of the Protection Children from Sexual Offences Act.

4 It is alleged that the victim, who was 12 years and 7 months old was forcibly taken by the applicant in a building which was under renovation and had shown her some obscene photographs. He *inter alia* tried to remove her clothes and fondled with her breast. It is alleged that the applicant had also taken her nude photographs.

5 The Investigating Officer has recorded the statement of witnesses including the statement of complainant under Section 161 of the Code of Criminal Procedure (“Cr.P.C.”) and after conducting investigation into the crime filed a charge-sheet against the applicant.

6 The alleged incident is of 29th August, 2021, however, the First Information Report came to be lodged on 3rd September, 2021. The statement of the victim under Section 164 of Cr. P. C. came to be recorded by the learned Metropolitan Magistrate, 71st Court, Bandra, Mumbai.

7 At the outset, learned Counsel for the applicant would argue that the applicant is behind the bars for nearly 29 months. There is no possibility of the trial being expeditiously conducted. The Investigating Officer has not recorded the statement of one Mr. Suresh, who alleged to have informed the father of the victim that she was intercepted by the applicant, subsequent to which, victim's father lodged a report. He, therefore, prays for bail of the applicant.

8 Learned APP and the Counsel appearing for the victim submit that the incident in question is not a solitary incident but the applicant had been harassing and stalking the victim whenever she used to go for tuition classes. My attention is invited to the statement of the victim recorded by the Investigating Officer indicating that she was disrobed by the applicant and took her nude photographs in his mobile.

9 It appears that though the mobile has been seized by the Investigating Officer nothing incriminating has been found in it. Considering the over all material on record coupled with the fact that the applicant is behind the bars without a trial for 29 months

with no hope of trial being concluded within a reasonable time, I am persuaded to grant him bail. Consequently, the following order;

ORDER

(a) The application is allowed.

(b) The applicant - Sunil Vyankatesh Vadar be released on executing a P.R. Bond in the sum of Rs.30,000/- with one surety in the like amount to the satisfaction of the trial Court in connection with C.R. No. 665 of 2021 registered with Oshiwara Police Station, Mumbai.

(c) The applicant shall not enter into the jurisdiction of Oshiwara Police Station until conclusion of the trial, except for attending the Oshiwara Police Station on first Sunday of each month between 10.00 a.m and 12.00 noon.

(d) After framing of the charge the applicant shall attend the trial Court on each date.

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

(f) The applicant shall furnish his permanent residential address as well as contact details to the Investigating Officer and shall also inform in case of any change.

(g) The applicant shall deposit his passport, if any, with the Investigating Officer.

(h) Needless to say that breach of any of the conditions would entitle the prosecution to pray for cancellation of bail.

10 At this stage, learned Counsel for the applicant prays for cash security till the surety is furnished.

11 The applicant is permitted to furnish cash security of Rs.30,000/- for a period of eight weeks.

12 The application stands disposed of in the aforesaid terms.

[PRITHVIRAJ K. CHAVAN, J.]