

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1404 OF 2023

Mr. Sagarnil Sukumar Sarkar ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

Ms. Sana Raees Khan a/w Aditya Parmar, Ruchita Rajpurohit & Abhijeet Singh, for the Applicant.

Ms. Supriya Kak, APP, for the Respondent No.1-State.

Ms. Meghna A. Gowalani, for Respondent No.2.

A. P. I. P. D. Gaikwad, Wakad Police Station, Pune, present.

CORAM : MADHAV J. JAMDAR, J.
DATED : FEBRUARY 29, 2024

P.C.:

1. Heard Ms. Sana Raees Khan, learned Counsel appearing for the Applicant, Ms. Kak, learned APP appearing for the Respondent No.1-State and Ms. Gowalani, learned Counsel appointed to represent the interests of the Respondent No.2.
2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1	C. R. No.	579 of 2021
2	Date of registration of F.I.R.	18/07/2021
3	Name of Police Station	Wakad Police Station, District-Pune
4	Section/s invoked	376, 376(2)(n), 354, 323 & 504 of the <i>I.P.C., 1860</i> ; 3, 4, 5, 6, 7, 8, 9(1)(n), 10 & 12

		of the <i>POCSO Act, 2012</i>
5	Date of arrest	18/07/2021
6	Date of filing Charge-sheet	16/09/2021

3. The Applicant is the step-father of the victim i.e. Respondent No.2. The victim's mother was married to one Stanley Stephen. Due to differences they started residing separately and ultimately a Divorce Decree was granted to them. Thereafter the victim's mother moved to Pune along with victim. Thereafter the victim's mother came in contact with the Applicant and started residing with the Applicant along with the victim since the year 2016. Thereafter in the year 2018, the Applicant and the mother of the victim got married. The mother of the victim died on 30th July 2018. On 17th July 2021, as the Applicant started assaulting the victim, she fled from the house and went to a shop namely 'Simply Delicious Bakery' and informed one Mr. Atul who is a friend of the Applicant. However, one person who was present in the said bakery made a phone call to the Principal of the 'Vidya Valley School' where the victim was enrolled, informing the Principal that the victim was extremely frightened and that she was in need of immediate help and said person also called the Child Helpline number. After some time, two Volunteers from Child Helpline as well as the Principal of the said school and one teacher Ms. Vidya came there and the victim

narrated to them that the Applicant who is her step-father is sexually assaulting her.

4. Although, it is the contention of Ms. Sana Raees Khan, learned Counsel appearing for the Applicant that as the Applicant was requiring discipline and therefore a false F.I.R. was lodged, however, contents of the F.I.R. as well as the statements of witnesses namely, Ms. Sumitra Ashok Bansode, Volunteer from Child Helpline (Page 98), Ms. Savita Chandrakant Diwate, Volunteer from Child Helpline (Page 99), Ms. Nalini Sen Gupta, Principal of Vidya Valley School Susgaon, Pune (Page 100), Ms. Vidya Avinash Divate, Counselor who was working in Vidya Valley School Susgaon, Pune (Page 102), the statement of the victim recorded under Section 164 of the *Code of Criminal Procedure, 1973* as well as the medical evidence *prima facie* show the commission of the crime by the Applicant. The offence is extremely serious and the punishment for the offence under Section 6 of the *Protection of Children from Sexual Offences Act, 2012* is rigorous imprisonment for a minimum of 20 years.

5. Accordingly, the Applicant is not entitled to be released on bail. Therefore, the Bail Application is dismissed.

[MADHAV J. JAMDAR, J.]