

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

BAIL APPLICATION NO. 3731 OF 2021

Prem Rajendra Prasad Dubey Applicant
v/s.
The State of Maharashtra and anr. Respondents

**WITH
INTERIM APPLICATION NO. 1408 OF 2022
IN
BAIL APPLICATION NO. 3731 OF 2021**

Vikas Mohanlal Khelani ... Intervenor

In the matter between :-
Prem Rajendra Prasad Dubey Applicant
v/s.
The State of Maharashtra and anr. Respondents

Ms. Aneeta Vasani for the Applicant.
Ms. Rutuja Ambekar, APP for the State.
Mr. Praveen Kamble i/b. Mr. Pramod Kumbhar for the intervenor.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 05th MAY, 2022.

P. C. :-

. This is an Application under section 439 of Cr.PC. filed by the aforesaid Applicant who is facing trial in Special Case No.272/2021 pending on the file of Additional Sessions Judge, Borivali (Div.), Dindoshi, Goregaon, Mumbai for offences under sections 377, 384, 420

of the Indian Penal Code and Sections 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

2. Heard Ms. Aneeta Vasani, learned counsel for the Applicant, Mr. Praveen Kamble, learned counsel for the Intervenor and Ms. Rutuja Ambekar, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the First Information Report (FIR) lodged by the father of the victim. The complainant has alleged that on 17/04/2021, they found that some money from the cupboard was missing. Upon inquiry, they came to know that the victim used to play online OLA PARTY game and that he had paid the money to the Applicant herein to recharge the said gaming App. The victim also told his parents that the Applicant had sexually abused him. The statement of the victim as well as the First Information report prima facie indicate that the Applicant had touched the private parts of the victim and had kissed his lips. In my considered view, this would not prima facie constitute offence under section 377 of the Indian Penal Code. The offence under Sections 8 and 12 are

punishable for maximum imprisonment upto five years. The Applicant is in custody for almost one year. Charge is not yet framed and trial is not likely to commence in the immediate future. Considering the above facts and circumstances, the Applicant is entitled for bail. Hence, the Application is allowed on the following terms and conditions :-

- (i) The Applicant who is facing trial in Special Case No.272/2021 pending on the file of Additional Sessions Judge, Borivali (Div.), Dindoshi, Goregaon, Mumbai is ordered to be released on bail on furnishing PR. bonds in the sum of Rs.30,000/- with one or two solvent sureties in the like amount ;
- (ii) The Applicant shall report to Oshiwara Police Station once in two months on every 1st Monday between 11.00 a.m. to 02.00 p.m. until further orders;
- (iii) The Applicant shall not interfere with the complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

- (iv) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.
- (v) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

4. Bail Application stands disposed of in above terms. Interim Application stands disposed of in view of disposal of Bail Application.

(SMT. ANUJA PRABHUDESSAI, J.)