

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

**BAIL APPLICATION NO. 1267 OF 2022**

Swapnil @ Akash Ravindra Sutar      ..Applicant  
VS.  
The State of Maharashtra and Anr.      ..Respondents

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Adv. M.J. Reena Rolland for the Applicant.

Mr. S. H. Yadav, APP for the State.

Adv. Ravi Uikey h/f Adv. Hrishikesh R. Chavan for the  
Respondent no. 2.

PSI – Rahul Patil, Powai Police Station.  
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**CORAM : M. S. KARNIK, J.**

**DATE : FEBRUARY 7, 2023**

**P.C. :**

- 1.** Heard learned counsel parties and learned APP for the State.
- 2.** This is an application for bail by the applicant- Swapnil @ Akash Ravindra Sutar, in connection with C.R. No.420 of 2016 dated 29/08/2016, registered with Powai Police Station, under sections 377, 506 read with 34 of the Indian Penal Code, 1860 ("IPC" for short), under sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO", for short) and under section 66E of the Information Technology Act, 2000.

**3.** At the relevant time, the age of the victim was 16 years and 8 months. The applicant was arrested on 29/08/2016. The applicant is the original accused no. 1. The First Information Report ("FIR", for shrot) was registered on 29/08/2016. It is alleged in the FIR that the act punishable under section 377 of the IPC was committed by the applicant on the victim on 15/08/2016 and the same was video-graphed on the mobile phone. The bail application of the applicant was rejected on merits by this Court on 10/01/2017. Thereafter a second bail application was moved by the applicant before this Court. The following order was passed on 24/11/2021.

"1. As this Court is not inclined to grant bail on merits, on instructions a motion is made for withdrawal of the application. The application stands dismissed as withdrawn.

2. It is brought to the notice of this Court that the trial is pending for last more than five years. That being so, hearing of the trial is expedited and in any case, be concluded within a period of one year from the date of this order."

**4.** I am informed by the learned counsel for the applicant that only 3 witnesses have been examined and in all, there are 25 witnesses who are to be examined. The trial could not be concluded within the period stipulated by this Court.

**5.** I have heard learned counsel for the complainant and learned APP who vehemently opposed the application. It is submitted that the minimum sentence punishable under section 4 of the POCSO Act is 10 years. In any case, the applicant has now undergone more than half of the minimum sentence prescribed. The trial has not been concluded within the time stipulated by this Court.

**6.** The applicant is in custody for more than 6 years and 5 months. The offence undoubtedly is serious in nature. The applicant will face the consequences post-trial if he is convicted. Considering the long incarceration, the seriousness of the offence will have to be balanced with the applicant's right to a speedy trial. The applicant can be enlarged on bail. Hence, the following order.

**ORDER**

**(a)** Applicant- Swapnil @ Akash Ravindra Sutar, in connection with C.R. No.420 of 2016, registered with Powai Police Station, shall be released on bail, on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount;

**(b)** 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;

**(c)** The applicant shall report to the concerned police station as and when called;

**(d)** The applicant shall not leave Mumbai without prior permission of the trial Court and shall attend the trial Court regularly;

**(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 not enter the area where the victim is residing.

**7.** The application is disposed of.

**(M. S. KARNIK, J.)**