

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2246 OF 2017

MOHD. ALEEM RASOOL BAKSH)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.S.D.Patil, Advocate for the Applicant.

Mr.V.V.Gangurde, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 5th OCTOBER 2017

P.C. :

1 This is an application by the applicant / accused in Crime No.97 of 2017 registered with Oshiwara Police Station for offences punishable under Sections 354 and 354A of the Indian Penal Code and under Section 6, 10 and 12 of the Protection of Children from Sexual Offences Act (POCSO Act).

2 Heard the learned advocate appearing for the applicant / accused. He argued that even if the prosecution case

is accepted as it is, then also the applicant / accused can be directed to undergo maximum sentence of 5 years and he has already spent six months behind bars. The investigation of the crime is over and the charge-sheet is also filed. Therefore, he claims bail.

3 The learned APP opposed the application by contending that the offence committed by the applicant / accused is explicitly described by the minor female victim and there are other witnesses who are corroborating her version. Therefore, the applicant / accused should not be released on bail during pendency of the trial.

4 I have carefully considered the rival submissions and also perused the entire charge-sheet. The victim of the crime in question is 9 years old female child. She had been to Hotel Food Inn for having dinner with her friends as well as family members. It is alleged by the prosecution that when the minor female victim had been to toilet, the applicant / accused had outraged her

modesty and committed sexual assault on her. As the minor female victim is less than 12 years of age, Section 10 of the POCSO Act is attracted and invoked against the applicant / accused.

5 The investigation of the crime in question is over. Charge-sheet is already filed. The offence alleged against the applicant / accused is one punishable under Section 10 of the POCSO Act, that is punishment for aggravated sexual assault. On proof of this offence, the applicant / accused will be liable for sentence of imprisonment which can run maximum up to 5 years.

6 In this view of the matter, pre-trial detention of the present applicant / accused is not warranted and he can be granted liberty by imposing necessary terms and conditions on him. Therefore the order :

ORDER

- i) The application is allowed.

- ii) The applicant / accused in Crime No.97 of 2017 registered with Oshiwara Police Station for offences punishable under Sections 354 and 354A of the Indian Penal Code and under Section 6, 10 and 12 of the POCSO Act, be released on bail on his executing P.R.Bond in the sum of Rs.25,000/-, and on furnishing surety in like amount.
- iii) As a condition of this order the applicant / accused should not contact either the alleged minor female victim or her relative in any manner.
- iv) The applicant / accused 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 such facts to the court or to the Police Officer.
- v) The applicant / accused should not commit any offence in future till conclusion of his trial.

(A. M. BADAR, J.)