

Anand

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

BAIL APPLICATION NO. 374 OF 2018

Laxman Shankarvel Harijan .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. A. H. H. Ponda i/b. Ms Mallika Ingale, Advocate, for the Applicant
Mrs. A. A. Takalkar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 17.04.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 705 of 2017 registered with the Malvani Police Station, Mumbai, for the alleged offences punishable under Sections 354A, 506(2) of the Indian Penal Code and under Sections 9(n), 10 of the Protection of Children from Sexual Offences Act (for short 'POCSO').

3. Perused the papers. According to the Complainant, aged 15 years, the Applicant - her father would touch her inappropriately and

that she had disclosed the same to her mother pursuant to which, there was a quarrel between them. She has stated that on one occasion, her father touched her on her chest & legs pursuant to which, she shouted and disclosed the same to her mother.

4. Learned counsel for the Applicant submitted that the Applicant has been falsely implicated in the said case. Learned counsel relied on the statements of several independent witnesses, in particular statements which are on page Nos. 44 to 46. A perusal of the said statements show that they are residing in the same vicinity as the Applicant. They have disclosed that the Applicant would leave for work early in the morning and came back late; that he was a good natured person and that the Applicant's wife would continuously quarrel with him and that she would also assault the children. They have stated that on 16.11.2017, there was a quarrel between the Applicant and his wife pursuant to which the neighbours gathered at the spot. They have stated that the Applicant disclosed that his wife was assaulting him in connection with the house where they were residing. The statement of the Complainant's brother, aged 10 years, also shows that there used to be fights between the Applicant and his wife, on the selling of the house, as the Applicant wanted to sell the house and go to the village. In

the N. C. complaint which was lodged by the Applicant's wife on 17.11.2017, i. e. on the very same day as the lodging of the FIR in this case, there are no allegations of any sexual assault by the Applicant on the Complainant. The N. C. has been lodged for the offences punishable under Sections 323 & 504 of the Indian Penal Code. The Applicant is in custody since November, 2017. Investigation is complete & charge-sheet is filed.

5. Considering the peculiar facts & circumstances of this case, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

(i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs. 25,000/-** with one or two local solvent sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned Police Station on the **first Sunday of every month** between **10:00 a. m. and 11:00 a. m.** till the conclusion of the trial;

(iii) The Applicant shall not enter the jurisdiction of the concerned police station except for the purpose of attendance as per Clause (ii);

(iv) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The Applicant to cooperate with the conduct of the trial;

(vi) The Applicant shall file an undertaking with regard to clauses (ii) to (v), in the trial Court, within two weeks of his release;

(vii) If there are two consecutive defaults in appearing before the trial Court or appearing before the investigating officer of the concerned police station, the prosecution will be at liberty to apply for cancellation of the Applicant's bail;

(viii) The Applicant is at liberty to seek modification of the aforesaid conditions (ii) & (iii) after nine months.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)