

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

BAIL APPLICATION NO. 1350 OF 2018

Shibu Ibrahim Khan	... Applicant
Vs.	
State of Maharashtra	... Respondent

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Mr. Viral K. Rathod for the applicant.
Mr. Y.Y. Dabke, APP for the Respondent-State.
Mr. Jadhav, API, Kurla Police Station is present in person.

...
CORAM : PRAKASH D. NAIK, J.
DATE : 27th AUGUST, 2018.

P.C.

1. This is an application for bail. The applicant was arrested vide C.R.No. 479 of 2017 with Kurla Police Station for offence under Sections 363, 367, 377 of Indian Penal Code and Section 6 of POCSO Act. The investigation is completed and chargesheet has been filed. The case is pending before the Special Court vide Special Case No. 83 of 2018.

2. Learned counsel for the applicant submits that the complaint was lodged by the father of the victim-child who was aged about 11 years at the time of incident. The FIR was registered on 9th December, 2017. It is alleged that on 8th December, 2017 at about 4 p.m., the victim was subjected to sexual assault. It is alleged

that the accused took the private organ of the victim boy in his mouth. According to the complainant, the source of the information was his brother. Brother's statement was recorded who had stated that he was informed by one Saklen Sheikh about the alleged incident. On perusal of the statement of Mr. Saklen Sheikh who has referred to alleged incident of 2nd December, 2017.

3. It is submitted that the applicant was arrested on 9th December, 2017 and since then he is in custody. Investigation is completed and the chargesheet has been filed. It is further submitted that the case of the applicant would not fall under Section 6 of POCSO Act. In accordance with the alleged factual aspect, the case would be covered by Section 4 of POCSO Act. It is submitted that there is conflicting version in the statement of the complainant and the other witnesses in respect to date of alleged incident. It is submitted that the applicant is willing to stay away outside the jurisdiction of Kurla Police Station as the witnesses and the victim are residing in the same locality.

4. Learned APP pointed out the statement of the victim-child. He submitted that the statement of the other witnesses also supports the case of the prosecution. However, on perusal of the

statement of victim child it appears that he has referred the alleged incident of 2nd December, 2017. It appears that there is conflicting version relating to date of incident. Chargesheet is filed and the case is pending before the Special Court.

5. Considering the aforesaid facts and that the applicant is in custody since the date of arrest i.e 9th December, 2017, bail can be granted to the applicant on certain terms and conditions. Hence, I pass the following order.

ORDER

- i) Criminal Bail Application No. 1350 of 2018 is allowed.
- ii) The applicant is directed to be released on bail in connection with C.R. No. 479 of 2017 registered with Kurla Police Station which is subject matter of Special POCSO Case No. 83 of 2018 on furnishing P.R. Bond of Rs.20,000/- (Rs. Twenty Thousand only) with one or more sureties in the like amount;
- iii) The applicant shall reside outside the jurisdiction of Kurla Police Station till the conclusion of the trial;
- iv) The applicant shall furnish all details about the address to the Investigating Officer where he would reside after he is being released on bail;

- v) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses;
- vi) The application stands disposed off.

Digitally
signed by
Sachidanand
Kuttan Nair
Date:
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(PRAKASH D. NAIK, J.)