

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

CRIMINAL BAIL APPLICATION NO. 1557 OF 2018

Harish Rajaram Tambe	... Applicant
Vs.	
The State of Maharashtra	... Respondent

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Mr. Milind Ingole for the applicant.
Mr. S.R. Agarkar, APP for the Respondent-State.
Ms. Chayya G. Kedar, PSI, Tilaknagar Police Station is present.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 4th DECEMBER, 2018.**

P.C.

1. The applicant is seeking bail in connection with CR No.11 of 2018 registered with Tilak Nagar Police Station for offence punishable under Sections 354-A, 323, 509, 504 of Indian Penal Code and Sections 8, 12 of POCSO Act.
2. The prosecution case is that the First Information Report was lodged by the wife of the applicant on 8th January, 2018. It is alleged that there was a quarrel between the applicant and the complainant on the ground that the mother of the complainant had come to reside with them since 1st January, 2018. The applicant asked the complainant as to when her mother left their house. There was exchange of words between them. The applicant alleged to have told the complainant that she had not

taken care of his parents and hence her mother should leave the house. Hearing the quarrel between the applicant and the complainant, their daughter aged about 17 years asked the applicant as to why he was assaulting her mother and she tried to intervene in the quarrel. At that time, the applicant had allegedly pulled the victim and told the victim that her mother is not allowing to touch her and sleep with her and now he would sleep with the victim. He also pressed her chest. Thereafter the victim had informed to complainant that in the month of September, the applicant caught her and pressed her chest and touched her inappropriately. Hence, the FIR was lodged. The statement of the victim was recorded on 8th January, 2018. The statement of the victim was also recorded under Section 164 of Code of Criminal Procedure on 23rd January, 2018. The applicant was arrested on 8th January, 2018.

3. Learned counsel for the applicant submitted that the complainant and the victim had falsely implicated the applicant in the crime since the applicant had objected the presence of the mother of the complainant in the house. There was a quarrel and on account of the same the applicant has been falsely implicated in this case. The investigation is completed and the chargesheet has

been filed. The victim had allegedly referred the incident of September, 2018 which is apparently false and concocted as she did not lodge any complaint nor inform about the same to her mother. The applicant had objected the behaviour of the victim and applicant had questioned the victim as she was seen with unknown boy. Thus, the complainant as well as the victim were biased against the applicant.

4. Learned APP submitted that there is sufficient evidence against the applicant. The statement of the complainant and the statement of the victim were recorded under Section 161 and Section 164 of Code of Criminal Procedure. Specific overt act has been attributed to the applicant for the alleged offence and therefore prayed that the application be rejected.

5. The complaint is lodged by the wife of the applicant. The victim is their daughter. The alleged incident had occurred at the spur of moment when there was a purported quarrel between the complainant and the applicant. According to the prosecution applicant was assaulting the complainant and at that time the victim had intervened and tried to pacify them. Applicant had allegedly committed the said act during the said quarrel. The cause of the incident is on account of visit of the mother of the

complainant in the house of the applicant. It is also alleged that the victim had subjected her to act of outraging the modesty as mentioned in FIR and in statement in September 2017, the victim did not state the said fact to the mother of the victim (complainant) on the earlier occasion. I have perused the statement of victim recorded under Section 164 of Code of Criminal Procedure. The tenor of the statement indicate that there was a quarrel going on between the applicant and the complainant. The complainant was assaulted by the applicant at that time victim had intervened and the accused had pushed her. It is further alleged that the applicant had uttered the word as stated herein above and pulled her. From the scenario as stated by the victim, it appears that there was a quarrel and when victim was intervened, applicant was pressed the chest of victim and thereafter the alleged incident amounting of outraging the modesty has occurred. In the said statement, victim has also stated that on the earlier occasion also accused had outraged her modesty as stated above. It is noted that applicant is in custody from the date of arrest. Investigation is completed and the chargesheet has been filed. Punishment provided to the offence is upto three years.

6. Learned advocate for the applicant submitted that the applicant and the complainant are not residing in the same house and they are residing separately. Applicant can be granted bail on certain condition.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with C.R. No. I-11 of 2018 registered with Tilak Nagar Police Station on furnishing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- iii. Applicant shall report to the Investigating Officer of the concerned Police Station on first Saturday of the month between 10 a.m. to 12 noon till further order;
- iv. Applicant shall not temper with the prosecution witness;
- v. Applicant shall not approach the witnesses;
- vi. Applicant shall attend the trial Court on the dates of hearing, unless exempted by the Court;
- vii. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)