

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

BAIL APPLICATION NO. 1869 OF 2018

Rahul Shyamlal Chandel

... Applicant

Vs.

State of Maharashtra

... Respondent

...

Mr. Ganesh K. Sovani a/w Mr. Vikram Walawakar for the applicant.

Mrs. G.P. Mulekar, APP for the Respondent-State.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 27th SEPTEMBER, 2018.

P.C.

1. Applicant is seeking bail in connection with CR. No.I-388 of 2017 registered with Nehru Nagar Police Station for the offence punishable under Sections 377, 504, 506 of Indian Penal Code and Sections 4, 8 and 12 of the POCSO Act, 2012.

2. The case of the prosecution is that the complainant is aged about 16 years. On 30th December, 2017 at about 9.30 a.m, when he was Nana Nani Park Garden at Thakkar Bappa Colony, Chembur, Mumbai two persons around twenty years of age came there and they threatened him to follow them. Thereafter said persons took the complainant to a dilapidated bungalow and both

of them but their private part in the mouth of the victim. It is further alleged similar act was committed by them 20 to 25 days back in the past. Hence, FIR was lodged against the accused persons.

3. Applicant and other accused were arrested on 19th February, 2018. The co-accused Saurabh Gautam @ Sourya being a juvenile was released on bail. It is submitted that investigation is completed and the chargesheet has been filed. The applicant has been identified by the complainant after a period of about one and half month from the date of incident. The applicant has no criminal antecedents and is willing to residing out of the jurisdiction of Chembur Police Station. Applicant is a young boy aged about 20 years. He is assisting his father in the family business of cobbler. Application preferred by the applicant before the Sessions Court was rejected on 21st March, 2018.

4. Learned APP submitted that applicant has committed serious crime of sexually assaulting the boy aged about 16 years. It is submitted that applicant was identified by the victim in presence of police. It is further submitted that accused have also subjected the victim to similar act in the past.

5. Having heard both the sides. I have gone through the

documents. The First Information Report was lodged on 30th December, 2017. On 19th February, 2018, complainant was accompanied by the police to garden. The applicant and co-accused were allegedly found sitting wherein the complainant has identified the applicant and co-accused are the same person who committed the alleged act. It is pertinent to note that the accused were identified as a person sitting in the said garden after a period of one and half month from the date of incident. The mother of the complainant has stated that the complainant is partially mentally disabled. There are no criminal antecedents against the applicant. Co-accused granted bail being a juvenile. Applicant is in custody from 19th February, 2018. Investigation is completed and chargesheet has been filed. Considering the aforesaid circumstances, bail can be granted to the applicant on certain conditions.

ORDER

- i) Criminal Bail Application No. 1869 of 2018 is allowed;
- ii) The applicant is directed to be released on bail in connection with C.R. No. 388 of 2017 registered with Nehru Nagar Police Station on furnishing P.R. Bond of Rs.20,000/-with one or more sureties in the like amount;

- iii) The applicant is permitted to furnish cash security in the sum of Rs. 20,000/- for the period of four weeks from today;
- iv) The applicant shall not reside within the jurisdiction of Nehru Nagar Police Station;
- v) The applicant shall furnish particulars of address of the place where he would reside after being released on bail to the Investigating Officer;
- vi) The applicant shall attend the trial court on the date of hearing of the case unless exempted by the Court;
- vii) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses;
- viii) The application stands disposed off.

(PRAKASH D. NAIK, J.)

Sachidanand
Kuttan Nair
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