

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

CRIMINAL BAIL APPLICATION NO.1905 OF 2018

Mhod. Afjal Mohd. Salim Khan .. Applicant
(At present at Taloja Central Prison)

Vs.

State of Maharashtra .. Respondent

.....
Mr.Anjali Patil, Advocate for the Applicant.
Mr.A.R. Kapadnis, APP for the Respondent – State.
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CORAM : PRAKASH D. NAIK, J.

DATED : SEPTEMBER 28, 2018.

P.C. :

Applicant is arrested on 28th May, 2018 in connection with C.R. No.150 of 2018, registered with BKC Police Station, Mumbai, for the offences punishable under Section 354, 354-D of IPC and Sections 8 and 12 of the POCSO Act.

2 Prosecution case is that the complainant is mother of one of the victim. The victims were aged about 13 and 10 years. It is alleged that on 27th May, 2018, when the victim girl was proceeding to call her aunt, the accused gave Rs.10/-, to her and caught hold of her hand and told her to come to his factory and told her that he would give her more money. The victim left the

place by crying. Other victim has also made a similar statement alleging that the accused had caught hold of her hand and took her to the factory, she managed to ran away. Thereafter, accused used to stare at them. Search of the accused was taken and the victim victim girl told the parents that the accused is the same person who has committed the aforesaid act.

3 Applicant preferred an application before the Sessions Court, which was rejected on 24th July, 2018. It is the case of the applicant that investigation is completed and charge - sheet is filed. He is in custody from 28th May, 2018. It is further submitted that the offence under Section 8 is not applicable in this case. Maximum punishment for the said offence is five years. There is delay of about 10 days in recording the statement of one of the victim. The statement of the victim does not indicate that there was any sexual assault.

4 Learned APP submitted that the victim were minor aged about 13 and 10 years respectively. they are related to each other. The second victim is the cousin of the first victim. The role is attributed to the applicant.

5 It is noted that the investigation is completed and the charge - sheet is filed. Apparently, there is no allegations of sexual assault. Applicant is in custody for a sufficient period. Further detention is not necessary. Considering the aforesaid circumstances, bail can be granted to the applicant.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.1905 of 2018, is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R.No.150 of 2018, registered with BKC Police Station, Mumbai, on his furnishing P.R. Bond in the sum of Rs.20,000/-, with one or more sureties in the like amount;
- (ii) Applicant shall not tamper with the evidence;
- (iii) Applicant shall stay outside the jurisdiction of BKC Police Station and shall report Kurla Police

Station, Mumbai, once in a Month on first Saturday of the month between 10:00 a.m. to 12:00 noon, conclusion of trial;

- (iv) Applicant is permitted to furnish cash security of Rs.20,000/-, in lieu of surety for a period of four weeks;
- (v) Bail Application No.1905 of 2018, stands disposed of;

(PRAKASH D. NAIK, J.)