

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

**CRIMINAL BAIL APPLICATION NO.2005 OF 2018**

Samsher Anwar Khan ... Applicant

V/s.

State of Maharashtra ... Respondent

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Mr.Nikhil Mullelwar i/by Mr.Sachin R. Pawar for the Applicant.  
Mr.S.S.Pednekar for the Respondent/State.

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**CORAM : SMT. ANUJA PRABHUDESSAI, J.**

**DATE : SEPTEMBER 18, 2018.**

**P.C.:**

1. This is an application under Section 439 of Criminal Procedure Code filed by the aforesaid applicant who is facing trial in Special POCSO Case No.15 of 2018 for the offences punishable under Sections 363, 376 r/w 34 of IPC and under Sections 3,4, 8, 9 and 11 of the Protection of Children From Sexual Offences Act.

2. Heard Mr.Nikhil Mullelwar, learned counsel for the applicant and Mr.S.S.Pednekar, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The record prima facie reveals that the daughter of the first informant was studying in 10<sup>th</sup> standard in Navjeevan Vidyamandir and she was about 16 years of age. It is alleged that on 22<sup>nd</sup> March, 2018 at about 10.00 a.m. she had left the house to go to school. She did not return home. Upon inquiries, the parents of the victim girl learnt that she had gone away with one Samir Salunkhe. The father of the victim therefore lodged the FIR against the said Samir Salunkhe for kidnapping his minor daughter.

4. The victim girl was subsequently traced and her statement was recorded. Her statement prima facie reveals that the co-accused Samir had taken her to Rajapur and that they had stayed together and during this time said Samir had sexual intercourse with her. In the light of the said statement Section 376 and other provisions under POCSO Act were added.

5. The only allegation against the applicant is that the co-accused Samir had used the motor-cycle of this applicant to take the victim girl from her school upto Mahad Bus-stand. The

material on record does not prima facie indicate that the applicant was involved in either kidnapping the victim girl or committing any sexual offence against her. The applicant is in custody since 9<sup>th</sup> April, 2018. The investigation is completed and charge-sheet is filed and hence, his presence is no longer required in custody. The applicant is a permanent resident of Raigarh and there are no chances of his absconding or thwarting the cause of justice.

6. Considering the above facts, so also the nature of the allegations, in my considered view, this is a fit case for grant of bail. Hence, the following order:-

**ORDER**

- (a) Bail application is allowed.
- (b) The applicant who is facing trial in Special POCSO Case No.15 of 2018 pending before the Additional Session Judge and Special Judge, Mangaon is ordered to be released on bail on furnishing bail bond Rs.25,000/- (Rupees Twenty Five Thousand) with one or two solvent sureties in the like amount.
- (c) The applicant shall furnish his permanent and temporary address, if any, and his contact details to the Investigating Officer.

(d) The applicant shall not change his residential address without prior intimation to the Investigating Officer.

(e) The applicant shall not interfere with the witnesses or tamper with evidence in any manner.

**(SMT. ANUJA PRABHUDESSAI,J.)**

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Priya  
Rajesh  
Soparkar

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signed by  
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