

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

BAIL APPLICATION NO.2125 OF 2018

Shaji Choudhary @ Syoji Ram Choudhary
(At present at Mumbai Central Jail)

.. Applicant

Vs.

State of Maharashtra

.. Respondent

.....

Mr.Prabhanjay R. Dave, Advocate for the Applicant.
Mr.A.R. Kapadnis, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 22, 2018.

P.C. :

This is an application for bail in connection with C.R. No.303 of 2018, registered with Oshiwara Police Station, Mumbai for the offences punishable under Section 354 and 509 of the Indian Penal Code ("IPC", for short) and under Sections 8 and 12 of the Protection of Children From Sexual Offences Act ("POCSO Act", for short). Applicant was arrested on 22nd June, 2018. Investigation is completed and charge-sheet is filed. First Information Report ("FIR", for short) was lodged on 22nd June, 2018.

2 Prosecution case is that the complainant is mother of the victim child. The victim child is aged about 14 years. It is alleged that two weeks prior to the lodging of the FIR, the

accused went inside the house of the complainant and inappropriately touched the victim. It is alleged that on two occasions, the accused had committed similar act. Applicant - accused was acquainted with the complainant and was in visiting terms and used to visit the house of the complainant frequently. It is alleged that on the day of incident, the applicant had visited the house of the complainant and when the complainant was in the kitchen, the accused had pressed the chest of victim and outraged the modesty of the victim by touching her inappropriately.

3 Learned counsel for the applicant submitted that FIR was lodged after two weeks after the alleged incident. It is submitted that the alleged act attributed to the applicant is outraging the modesty and offence under Sections 8 and 12 of POCSO Act. The offence under Section 354 is punishable with five years and offence under Sections 8 and 12 is punishable upto three years. It is submitted that there are no antecedents against the applicant. Investigation is completed and charge - sheet has been filed.

4 Learned APP submitted that the applicant has committed serious crime of outraging the modesty of the victim

child. The victim was a minor about 14 years. The applicant took undue advantage of the situation and had committed the alleged act. It is, therefore, submitted that bail be rejected.

5 Applicant was heard on the last occasion and on instructions, learned APP submitted that there are 40 to 50 cases of the POCSO Act, pending before the trial Court, where this case is pending. Learned counsel for the applicant submitted that trial would not began immediately. Considering the fact that the applicant is in custody since the date of arrest, bail be granted by imposing conditions. I have perused the charge-sheet. The charge against the applicant has committed the alleged act referred to in FIR, which amounts to outraging modesty and the offence under POCSO Act. The incident had occurred in first week of June 2018. FIR was lodged on 22nd June, 2018. Applicant is in custody from 22nd June, 2018. Considering the fact that investigation is completed and the charge-sheet is filed and the punishment provided for offence, bail is granted to the applicant on certain conditions.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.2125 of 2018, is allowed;

- (ii) Applicant is directed to be released on bail in connection with C.R. No.303 of 2018, registered with Oshiwara Police Station, Mumbai, on his furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall report Oshiwara Police Station, Mumbai once in a month on first Saturday between 10:00 a.m. to 12:00 noon, till the conclusion of trial;
- (iv) Applicant shall not enter into the vicinity of Swami Samarth Nagar, Lokhandwala, Andheri, till the conclusion of the trial;
- (v) Bail Application No.2125 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)