

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

CRIMINAL BAIL APPLICATION NO. 1247 OF 2018

Mayur Suryakant Chavan	... Applicant
Vs.	
State of Maharashtra	... Respondent

WITH

CRIMINAL BAIL APPLICATION NO. 2199 OF 2018

Nitin Harishchandra Pangale	... Applicant
Vs.	
State of Maharashtra	... Respondent

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Mr. Vijay S. Kurle for the applicant in B.A No. 1247 of 2018.
Mr. Y.Y. Dabke, APP for the Respondent-State in B.A.No. 1247 of 2018.
Ms. Tripti R. Shetty for the applicant in B.A.No.2199 of 2018.
Ms. A.A. Takalkar, APP for the Respondent-State in B.A. No. 2199 of 2018.
Mr. D.R. Ganose, Police Inspector of Vile Parle Police Station is present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 3rd SEPTEMBER, 2018.

P.C.

1. The applicant in Bail Application No. 1247 of 2018 is arrested on 3rd February, 2018 and applicant in Bail Application No. 2199 was arrested on 5th February, 2018 in connection with C.R. No. 44 of 2018 registered with Vile Parle Police Station. The offences were registered for the offence punishable under Sections 376, 376(i), 376(n), 377, 354, 345, 345(d), 509, 506, 504 read with Section 34 of Indian Penal Code.

2. The investigation is completed and the chargesheet has been filed. The prosecution case is that victim aged about 15 years was sexually assaulted by several persons for about one year from May, 2017. As far as the applicant in Bail Application No. 1247 of 2018, the role assigned to him is that on 26th January, 2018 the victim had visited her grand father's house. She had gone to the public toilet in the evening at about 7 p.m. The said applicant followed her and outraged her modesty. He stated that he know that victim is indulging in sexual acts. The role attributed to the applicant in Bail Application No.2199 of 2018 is that the co-accused had visited his house alongwith victim in August, 2017 and in the house of the said applicant, co-accused had committed sexual intercourse. At that time, he was standing outside. Thereafter, the applicant committed the act amounting to outraging her modesty. F.I.R was lodged on 5th February, 2018. Chargesheet has been filed against the said applicant for the offence punishable under Sections 354, 509, 506 read with 34 of Indian Penal code and Sections, 8, 12 of the POCSO Act.

3. Learned advocate for the applicant in B.A. No. 1247 of 2018 submitted that the only role which is attributed to him would at the most constitute offence under Section 354 of Indian Penal

Code. It is further submitted that he has been falsely implicated in the case. On the day of alleged incident he was in Ratnagiri which is supported by the affidavit of his companion and CCTV footage. Learned advocate for the applicant in B.A. No. 2199 of 2018 submitted that the case of the complainant is doubtful. It is difficult to accept that sexual intercourse was committed in a small room of Chawl where the said applicant is residing with other family members. It is submitted that first information report was lodged belatedly. The applicant is attributed role of outraging modesty. Learned advocate for the applicant on instructions submitted that they are willing to reside outside the jurisdiction of Vile Parle Police Station.

4. Learned APP submitted that accused are involved in serious crime. The accused had sexually assaulted the victim. The applicant in B.A. No. 2199 of 2018 had abetted the co-accused in committing the crime as well as in committing the act of outraging of modesty and the offence under POCSO Act. It is further submitted that the specific role has been attributed to the applicant in B.A. No. 1247 of 2018.

5. I have perused the chargesheet. It is apparent that the applicant in B.A No. 1247 of 2018 had allegedly committed the act

on 26th January, 2018. He is not attributed the act of sexual assault. The applicant is alleged to have committed the act outraging the modesty of the victim.

6. As far as applicant in B.A. No. 2199 of 2018, the alleged act was committed in August, 2017 for which the chargesheet has been filed against him under Section 354(D) of Indian Penal Code and Section 8 and 17 of POCSO Act. The role attributed to him is that he had abetted the crime. The applicants are in custody since February, 2018. The investigation is completed and the chargesheet has been filed. There are no reported criminal antecedents against the applicants. Learned counsel for the applicant on instructions submitted that they are willing to reside outside jurisdiction of Vile Parle Police Station. In the circumstances, bail can be granted with certain conditions.

ORDER

- i) Criminal Bail Application No. 1247 of 2018 and Criminal Bail Application No. 2199 of 2018 are allowed.
- ii) The applicants are directed to be released on bail in connection with C.R. No. 44 of 2018 registered with Vile Parle Police Station on furnishing P.R. Bond of Rs.20,000/- (Rs. Twenty Thousand only) each with one or more sureties in the like amount;

- iii) The applicants shall not reside within the jurisdiction of Vile Parle Police Station till further order;
- iv) The applicants shall furnish their latest address and the contact number to the Investigation Officer of Vile Parle Police Station after they are released on bail;
- v) The applicants shall not tamper with the evidence and/or influence the prosecution witnesses;
- vi) The applications stand disposed off.

Sachidanand
Kuttan Nair

Digitally
signed by
Sachidanand
Kuttan Nair
Date:
2018.09.07
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(PRAKASH D. NAIK, J.)