

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

CRIMINAL BAIL APPLICATION NO. 2373 OF 2018

Suresh Yallappa Kanale	... Applicant
Vs.	
The State of Maharashtra	... Respondent

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Mr. Sushil Kauthekar for the applicant.
Mr. A.R. Kapadnis, APP for the Respondent-State.
Ms. Chaya G. Kedar, PSI, Tilaknagar Police Station is present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 7th DECEMBER, 2018.

P.C.

1. This is an application for bail under Section 439 of Code of Criminal Procedure vide CR No. 210 of 2018 read with Tilaknagar Police Station for the offence punishable under Section 354, 325 of Indian Penal Code and Sections 4 and 10 of POCSO Act.
2. The first information report was lodged by the mother of victim on 6th June, 2018. The victim is girl aged about 6 yeas. The case of the prosecution is that the complainant and the victim are residing at Sidharth Chawl, Near Nilgiri Building, P.L. Lokhande Marg, Chembur, Mumbai alongwith other family members. On 5th June, 2018, the complainant notice swelling on the lower lip of daughter. On inquiry she was informed that at about 8 to 9 p.m. on the previous day the victim was playing with the friend Afrin

and at that time the accused had bitten the lower lip of victim and also touched her chest. After registration of FIR, the applicant was arrested on 6th June, 2018.

3. The statement of the victim was recorded on 27th June, 2018 under Section 161 of Code of Criminal Procedure in which she has stated that while she was playing in the house of friend, accused had beaten her lip. However she has not pointed out the act of touching her chest as reflected in the complaint. Subsequently statement was recorded on 28th June, 2018 in which she has stated that accused had kissed her lips and also touched her chest. However subsequent statement of the victim was recorded under Section 164 of Code of Criminal Procedure on 21st August, 2018 in which it is stated that the accused had caught hold her hand and told that he would be given a chocolate. He took her towards terrace. Victim refused to go, he was trying to drag her by hand. However, she managed to leave the said place and ran into house of her aunt. She has further stated that accused as not done any other act. From the statements of the victim, it appears that there are variation in the overt act to the applicant. The statement under Section 164 of Code of Criminal Procedure does not refer to act of touching her chest or biting her lip. The applicant is in

custody from 6th June, 2018. Investigation is completed and the chargesheet has been filed. In the circumstances, bail can be granted on certain conditions. Hence, I pass the following order.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with C.R. No. 210 of 2018 registered with Tilaknagar Police Station on furnishing P.R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- iii. Applicant shall stay out of the jurisdiction of Tilaknagar Police Station;
- iv. Applicant shall furnish the details of his residential address to the Investigating Officer, after he is released on bail;
- v. Applicant shall attend the trial Court on the date of hearing regularly, unless exempted by the Court;
- vi. Applicant shall not tamper with the evidence.
- vii. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)