

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

CRIMINAL BAIL APPLICATION NO. 2433 OF 2018

Shrushti Ashok Kamble ... Applicant.

V/s.

The State of Maharashtra ... Respondent.

Mr. Kapil Dave, Advocate, a/w. H. D. Magar for the Applicant.
Ms. A. A. Takalkar, APP for the Respondent - State.
(Mr. Nimbalkar, PSI, Kanjurmarg Police Station, is present.)

CORAM : PRAKASH D. NAIK, J.

DATE : OCTOBER 09, 2018.

PC :

1 This is an application for grant of bail in connection with C.R. No. 87 of 2018, registered with Kanjurmarg Police Station for offences under sections 323, 328, 504 of IPC r/w. Sections 4, 8, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012. The applicant was arrested on 16.05.2018.

2 The prosecution case is that the complainant is boy, aged about 17 years. He is residing with his parents. He was taking tuitions from the applicant-accused during the period from 2015 to 2017. In June 2017, the complainant met

the accused in R-Mall at Mulund alongwith her sister Drushty Kamble and her friends. The accused and the complainant were using the Gymnasium at Bhandup and they continued chatting on social media. The accused called the complainant on 15.03.2018 to her residence to celebrate her birthday party. The accused gave her cold-drink, which was spirit. The complainant consumed the same and felt drowsiness. When the complainant was in such a situation, the accused took him to her bedroom removed his clothes. Thereafter, abused him physically. On the next day, the accused insisted the complainant to visit her again otherwise threatened him of defamation. Hence on two more time, the complainant had visited the residence of the accused where again he was physically abused. The accused kept on calling the complainant and since he did not succumb to her threats, on 15.04.2018 the accused visited premises of the complainant and started assaulting him with hand and slippers and also abused him verbally.

3 The applicant – accused is in custody from the date of arrest. The complainant is a boy, aged about 17 years. The investigation is complete and the charge-sheet is filed. The FIR was lodged on 16th May, 2018. The first incident, as alleged, is of 15.03.2018 which was followed by subsequent incidents. It is pertinent to note that the accused is a lady, who was purportedly tuition teacher of complainant.

It is difficult to accept that on account of consuming the cold drink, he could not understand what was happening. It is also apparent that the incident had occurred repeatedly and, in spite of that, no complaint was lodged by the complainant nor he informed about such incidents to his parents. Both of them were acquainted with each other.

4 Learned counsel for the Applicant-accused submitted that the complainant had lodged a false and frivolous complaint with the a view to cause harassment to the applicant. He relied upon whatsapp messages exchanged between both of them, which show that they were acquainted with each other. It is submitted that uncle of the complainant is a police officer and the father of the complainant is Advocate. The complainant is of an age of understanding and it is difficult to believe that he was subjected to forcible physical abuse at the hands of the applicant-accused.

5 The learned APP for the State supported the order of the Sessions Court, rejecting the application of bail of the applicant by relying upon the contents of the first information report. The boy was sexually harassed by the accused. The statement of victim attributes overt-act to the accused.

6 The accused is a lady who is in custody from 16th May, 2018. Investigation is complete and the chargesheet is

filed. The case of the complainant that he was given some cold drink due to which he would not understand what has happened. The first incident had occurred on 15.03.2018, which was supported by subsequent incidents. It is difficult to believe that under coercion, he was repeatedly subjected to sexual assault. The documents on record show that both of them were acquainted with each other.

7 In the light of the aforesaid facts, the case for grant of bail is made out. Hence, I pass the following order :

ORDER

- i. The bail application no. 2433 of 2018 is allowed.
- ii. The applicant be released on bail in connection with the C.R.No. 87 of 2018, registered with Kanjurmark Police Station on furnishing P.R. Bond in the sum of Rs. 20,000/- with one or more sureties in the like amount.
- iii. The applicant shall report investigating officer once in a month, on the first Saturday of every month, between 10 to 12 pm till further orders.
- iv. The applicant shall attend the trial court during the course of hearing till conclusion of the trial.

- v. The applicant is permitted to furnish a cash security of Rs. 20,000/- for a period of six weeks.

The application is disposed of in the aforesaid terms.

(PRAKASH D. NAIK, J.)

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