

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2523 OF 2017**

Shahid Gulam Khan

....Applicant.

Vs.

The Sr. Police Inspector & Anr.

....Respondents.

Mr. Sajid Qureshi I/by M.A. Shaikh for the Applicant.

Ms. Rutuja Ambekar APP, for the Respondent-State.

Mr. Nilesh Dhonde, PSI, Sakinaka Police Station.

CORAM : A. S. GADKARI, J.

DATE : 8th AUGUST, 2018.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 44 of 2017 dated 19th January, 2017 registered with Sakinaka Police Station under Sections 354, 34 of the Indian Penal Code and Section 8 of POCSO Act, now culminated into Special Case No. 98 of 2017.

2 Heard the learned counsel appearing for the Applicant and the learned APP. Perused the charge sheet.

3 The victim girls in the present crime were aged about 10 and 7 years respectively on the date of lodgment of crime and therefore, with a view to protect her identity and in consonance with the provisions of Section 228(A) of the Indian Penal Code and Section 33(7) of the POCSO Act, the detailed narration of the facts mentioned

in the first information report and in the statements of the victim girls is hereby avoided.

4 It is the prosecution case that, the victim girls had been to the tuition classes of witness Smt. Monika Sharma on the date of the incident. That, at about 8.45 p.m. the victim girls had been to the public toilet for answering the nature's call. It is alleged that, the Applicant Shahid Gulam Khan and co-accused Karim Pesumuddin Khan accosted the victim girls and the Applicant touched the private part of the first victim girl and therefore, it is alleged that he has committed an offence as contemplated under Section 354 of the Indian Penal Code and under Section 8 of the POCSO Act. Apart from the allegations mentioned here-in-above against the Applicant, no other overt act has been attributed to him.

The Applicant has been arrested on 20th January, 2017 and after completion of investigation, the police have submitted the charge-sheet.

5 After taking into consideration the allegations made against the Applicant and the fact that the police have already completed the investigation, no fruitful purpose will be served by further keeping the Applicant in incarceration. It is submitted by the

learned counsel for the Applicant that, there are no antecedents at the discredit of the Applicant.

6 In view of the above, the Applicant can be released on bail.

Hence, the following order-

- a) The Applicant be released on bail in CR No. 44 of 2017 registered with Sakinaka Police Station, now culminated into Special Case No. 98 of 2017, on his furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount.
- b) After his release from Jail, the Applicant shall attend Sakinaka Police Station, Mumbai, on every first Monday of the month between 11.00 a.m. and 1.00 p.m. till conclusion of the trial.
- c) The Applicant shall attend all the dates before the Trial Court unless precluded for medical reasons.
- d) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

7 Application is allowed in the aforesaid terms.

S S
Mashalkar

Digitally signed
by S S
Mashalkar
Date: 2018.08.20
17:54:56 +0530

(A.S. GADKARI, J.)