

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2796 OF 2018

Danish Jehangir Shaikh, Age 20 years, R/o.741, Ground Floor, Garibnawaz Chawl, Sunderkamal Nagar, Sion, Mumbai (Presently lodged at Taloja Jail)	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Chandansingh Shekhawat I/by Juris Corp for applicant.

Mr.A.R.Kapadnis, APP, for State.

Mr.K.P.Thorat, PSI, Sion Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 31st October 2018

PC :

1. This is an application for bail in connection with CR No.73 of 2018 registered with Sion Police Station. The FIR was registered under Sections 323 of Indian Penal Code r/w Sections 8 and 12 of Protection of Children from Sexual Offences Act. The applicant was arrested on 17th March 2018.

2. The FIR was lodged on 17th March 2018 by the mother of victim. It is alleged that the son of complainant who is aged about 5 years approached her and informed that the uncle residing in their neighbourhood had asked him to bring shampoo from the shop and after he brought the shampoo and handed over to the said person, he

removed the victim's pant and touched his buttocks. Pursuant to the registration of FIR, the investigation has proceeded and the charge sheet is filed. The applicant had preferred application for bail before the Sessions Court which was rejected on 6th August 2018.

3. It is submitted by learned advocate for applicant that the applicant is in custody from 17th March 2018. The charge sheet is filed and further custody is not required. There is no allegation of sexual assault. The offence is at the most punishable with five years. It is submitted that the applicant is willing to stay out of area where the victim resides.

4. Learned APP submitted that the victim is minor boy aged about 6 years. He has specifically attributed overt act to the applicant. I have gone through the documents on record. The version of victim is narrated hereinabove. There is no allegation of sexual assault. The applicant is a boy aged about 20 years. Learned Sessions Judge while rejecting the application for bail has taken into consideration the fact that the applicant is not permanent resident of Mumbai and his native place is Uttar Pradesh. His presence cannot be secured during the trial. It is also observed that it is true that there is no material evidence on record to show that any sexual assault was done by the applicant upon the victim and there is no medical examination. Considering the aforesaid circumstances and the fact that investigation is completed and charge sheet is filed, further detention of the applicant is not necessary. The applicant can be granted bail on certain conditions.

5. Hence, I pass following order :

ORDER

- (i) The applicant is directed to be released on bail in connection with CR No.73 of 2018 registered with Sion Police Station, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (ii) The applicant shall not enter within the jurisdiction of Sion Police Station;
- (iii) The applicant shall attend the Trial Court during the hearing of case regularly unless permitted by the Court;
- (iv) The applicant shall not approach the victim and shall not tamper with the evidence;
- (v) The applicant shall furnish his permanent residential address to the investigating officer after he is released on bail
- (vi) The applicant is permitted to furnish cash security in the sum of Rs.25,000/- for six weeks;
- (vii) Criminal Bail Application No.2796 of 2018 stands disposed off.

(PRAKASH D. NAIK, J.)

MST