

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2658 OF 2017

NARESH TEJAN THAKUR)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Sumant Deshpande and Mr.Akshay Suhas Patkar h/f.
Mr.Subodh Pathak, Advocate for the Applicant.

Ms.Anamika Malhotra, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 23rd MARCH 2018

P.C. :

1 This is an application for releasing the applicant/accused on bail. He is charge-sheeted for the offence punishable under Section 354 of the Indian Penal Code as well as under Sections 8 and 10 of the Protection of Children from Sexual Offences Act, 2012, at the instance of mother of the victim female child by Borivali Police Station, Mumbai.

2 Heard the learned Advocate appearing for the applicant/accused. He argued that there is variance between the First Information Report (FIR) lodged by mother of the victim female child and the statement of the victim female child. He further argued that conduct of the elder sister of the victim female child is also suspicious as she has not disclosed the incident to her mother soon after communication by the victim female child.

3 The learned APP opposed the application by contending that the crime in question is serious and the FIR of the mother of the victim female child coupled with statement of the victim female child shows that the victim female child was molested by the applicant/accused.

4 I have considered the rival submissions and also perused the entire charge-sheet. Infact, earlier bail application filed by the present applicant/accused was withdrawn without advancing any arguments on 4th October 2017. The instant application is filed as the Charge is not yet framed, leave apart

commencement of the trial. The offence punishable under Section 10 of the Protection of Children from Sexual Offences Act, 2012, is punishable up to 7 years of maximum punishment.

5 The allegation against the present applicant/accused is to the effect that he had touched the victim female child inappropriately when the victim had been to the school of her mother – the First Informant.

6 Along with the application, the applicant/accused has annexed the photocopy of the affidavit of Ved Prakash Pandey, Assistant Teacher in the school as well as correspondence with the Senior Inspector of Police of Borivali Police Station. Ved Prakash Pandey has stated in his affidavit that there is dispute in the management of the school and the applicant/accused is falsely implicated in the crime in question for setting the personal scores.

7 Be that as it may, as investigation of crime in question is over and the maximum punishment, if the applicant/accused is

found guilty, is only that of 7years, and the fact that the applicant/accused is behind bars for more than 1 year, he deserves to be released on bail after completion of the investigation.

Therefore, the order :

ORDER

- i) The application is allowed.
- ii) The applicant/accused in Crime No.120 of 2017 registered with Borivali Police Station for the offences punishable under Section 354 of the Indian Penal Code and under Sections 8 and 10 of the Protection of Children from Sexual Offences Act, 2012, is ordered to be released on bail on his executing Personal Bond in the sum of Rs.15,000/- and on furnishing surety in the like amount.
- iii) As a condition of this order, the applicant/accused should not contact either the victim female child or her relatives including her mother and he shall not extend any threat, promise or inducement to any person acquainted with the

facts of the accusation against him so as to dissuade him from disclosing such facts to the court or to any Police Officer.

- iv) The applicant/accused should not indulge in commission of similar offence in future.
- v) The application stands disposed of accordingly.

(A. M. BADAR, J.)