

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

CRIMINAL BAIL APPLICATION NO. 3030 OF 2018

Raju Singh Surendra Singh Panesar ... Applicant

Vs.

The State of Maharashtra ... Respondent

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Mr. Virendra T. Dubey for the applicant.

Mr. S.R. Agarkar, APP for the Respondent-State.

Mr. Gacchhe, PSI, Malwani Police Station is present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 4th DECEMBER, 2018.

P.C.

1. This is an application for bail in connection with CR No. 361 of 2018 registered with Malvani Police station for the offence. Applicant was arrested on 23rd May, 2018. The offences were registered under Section 354 of Indian Penal Code and Section 8 of POCSO Act.
2. The complaint was lodged by the mother of the victim on 23rd May, 2018. It is alleged that the applicant accused is residing alone in the society where the complainant and the victim resides. Accused provides, chocolates, biscuits etc. to the children. On 22nd May, 2018 at about 10.30 p.m. the victim was playing in the society, she did not return. Complainant learnt that the victim child is playing in the house of the applicant/accused. At about 11

a.m. the complainant knocked the door of the applicant. He opened the door and victim was found in the house. The accused told the complainant that the victim is playing in the house. The complainant suspected the conduct of the accused and hence she took the victim in confidence and made inquiry to her and victim told the complainant that applicant had kissed her cheek and touched the private part of the victim. The complainant then questioned the accused who gave evasive answers. Members of the society assaulted the accused. The complainant's husband gave a call to 100 number and in pursuant to that police reached on the spot. The accused was taken to the police station and was arrested. Investigation is proceeded. The statement of victim was recorded on 23rd May, 2018. On completing investigation, chargesheet has been filed.

3. Learned advocate for the applicant submits that applicant has been falsely implicated in this case. The applicant was assaulted and damage was caused to his property and the house by the complainant and others and hence it is the applicant who had called the police by dialing 100 number and not the husband of the complainant. It is submitted that the said fact is fortified by the message received by the police from the applicant. It is submitted

that there is no independent evidence to support the case of the prosecution. The applicant is residing at the aforesaid place alongwith her mother. He is in custody from the date of arrest. Investigation is completed and the chargesheet has been filed.

4. Learned APP submitted that the involvement of the applicant is apparent from the statement of the witnesses. The statement of the victim has also corroborated with the statement of other witnesses.

5. I have perused the chargesheet. The statement of neighbours which were recorded refers to hearsay information. However, the victim has stated that the applicant had committed alleged act. It is the contention of the applicant that on account of damage, to the property, the applicant had given a call to the police which is fortified by the message received from the police on his cell phone. Applicant is aged about 50 years. There are no criminal antecedents against him. It is submitted that the accused and his family had suffered loss of Rs.80,000/- on account of damage to property. On account of enmity with the complainant, she had visited the house of the applicant alongwith mob. The statement of complainant is that the husband of the complainant had given call to the police which appears to be false. Applicant is

in custody from the date of arrest. Investigation is completed and chargesheet has been filed. Hence, the case for grant of bail is made out.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with C.R. No. I-361 of 2018 registered with Malvani Police Station on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. Applicant shall stay out of the jurisdiction of Malvani Police Station;
- iv. Applicant shall not temper with the prosecution witness;
- v. Applicant shall not approach the victim and her family members;
- vi. Applicant shall furnish his address to the Investigating Officer, after he is being released on bail;
- vii. Applicant shall attend the dates of hearing before the Trial Court, unless exempted by the Court;
- viii. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)