

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

CRIMINAL BAIL APPLICATION NO.3035 OF 2018

Nehal Shaikh s/o. Ummar Shaikh
(At present Talaja Jail)

.. Applicant

Vs.

State of Maharashtra

.. Respondent

.....
Ms.Trupti R. Shetty, Advocate for the Applicant.
Mr.S.R. Agarkar, APP for the Respondent – State.
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CORAM : PRAKASH D. NAIK, J.

DATED : NOVEMBER 27, 2018.

P.C. :

The applicant is seeking bail in connection with C.R. No.549 of 2018, registered with Goregaon Police Station, Mumbai, on 8th October, 2018, for offences punishable under Sections 354, 354(D), 509 and 504 of Indian Penal Code (“IPC”, for short) and under Sections 8, 11(1) and 12 of Protection of Children From Sexual Offences Act, 2005 (“POCSO”, for short).

2 The prosecution case is that the complaint was lodged by the mother of the victim girl who is aged about 17 years. The victim is a student of 11th standard. She was

acquainted with the applicant-accused. It is alleged that on 8th October, 2018, the accused approached the victim and abused her in filthy language, stating that she sleeps with every one. He snatched her mobile phone. With a view to get the possession of mobile phone back from the accused, the victim accompanied the accused in auto-rickshaw and while in the said vehicle, the accused outraged her modesty. FIR was lodged on 8th October, 2018.

3 The contention of the applicant is that he has been falsely implicated in this case. The applicant-accused and the victim were acquainted with each other. The applicant relied upon various chat messages exchanged between both of them. It is submitted that considering the allegations made in the FIR and the statement of the victim father, detention of the applicant is not necessary. Learned APP submitted that the victim and the complainant has attributed specific overtact to the applicant. Offence under the provisions of IPC as well as POCSO Act are invoked against the applicant. It is further submitted that one more case is registered against the applicant in 2017, which is under investigation. Learned counsel for the applicant have pointed out letter dated 14th September, 2017, forwarded to the

Senior Inspector of Police by the mother of the victim stating that the victim is required to appear for SSC examination, and, therefore, the FIR is to be withdrawn. Learned counsel for the applicant also submitted that the applicant is a student of engineering and studying in Thakur Engineering College at Kandivali. Apparently, the FIR was registered under Section 363 of IPC against applicant. Complainant and the victim were the same. It appears subsequently Section 376 has been added to the earlier complaint after registration of the present FIR. In present FIR, primary role attributed to the applicant is outraging modesty. There is no allegation of sexual assault. Admittedly, the victim is aged about 17 years and the applicant is aged about 18 years. Both were acquainted with each other. Taking into consideration the aforesaid circumstances, case for grant of bail is made out and further detention of the applicant is not necessary. Applicant is in custody from 8th October, 2018.

4 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.3035 of 2018, is allowed;

- (ii) Applicant is directed to be released on bail in connection with C.R. No.549 of 2018, registered with Goregaon Police Station, Mumbai, on his furnishing P.R. Bond in the sum of Rs.20,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall not tamper with the evidence;
- (iv) Applicant is directed to attend the Goregaon Police Station, Mumbai, once in a month on first Saturday of the month between 10:00 a.m. to 12:00 noon, for the period of six months;
- (v) Applicant is directed to attend the trial Court regularly on the date of hearing, unless exempted by the Court;
- (vi) Applicant is permitted to furnish cash surety of Rs.20,000/- in lieu of surety for a period of four weeks from today;

(vi) Bail Application No.3035 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)