

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3159 OF 2018

Smt. Vinaya Vikram Padwal

...Applicant

V/s.

The State of Maharashtra

...Respondent

Mr. Kuddus Hariulla i/b.K.H. Associates for the Applicant.

Mr. Prashant Jadhva, APP for the Respondent/State.

CORAM : PRAKASH D. NAIK, J.

DATED : 19th DECEMBER 2018.

P.C. :

1. The applicant is arrested in C.R.No.210/2018 registered with Meghwadi Police Station for the offences punishable under Sections 363, 376(i), 323 read with 34 of the Indian Penal Code and Sections 4, 8, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as 'POCSO Act' for the sake of brevity).

2. The case of the prosecution is that the victim is minor girl

aged about 14 years. She alongwith her mother and brother is residing with her grand-mother. The applicant is the mother of the victim. There are disputes between her mother and father. In 2014 she was residing along with her parents at Jogeshwari. Accused No.1 used to visit their house frequently. The applicant used to call the said person frequently. Even the household work such as goods from military canteen were purchased by him for the family. Some time the informant and her brother used to go to canteen for bringing grocery and other articles with co-accused. In 2016, the applicant told the victim and her brother to accompany accused No.1 at canteen for bringing household articles. Accused No.1 took the victim and her brother to go to canteen, but they were taken to his house. Accused No.1 told them to sit in the hall. Thereafter, the said accused told informant to give her mobile. The accused then removed the clothes of the victim and committed the alleged act by touching her inappropriately as mentioned in the FIR. The victim returned home and informed about the said incident to her mother (applicant). However, the applicant did not take any action and

on the contrary, shouted on her. It is further alleged that in May 2016, the victim's friend had uploaded her photographs on the face-book. Thereafter, the FIR was lodged against the applicant and other accused.

3. Learned counsel for the applicant submitted that the applicant has been falsely implicated in the case at the instance of her husband. There are disputes between the applicant and her husband. The victim was tutored by applicant's husband to lodge complaint against the applicant. The victim is daughter of the applicant. The alleged sexual assault was committed by the other accused. The applicant is in custody from the date of arrest and considering the allegations made against her, further detention is not necessary.

4. Learned APP submitted that the victim is a minor girl aged about 14 years. She was sexually assaulted by Accused No.1. The victim had accompanied the said accused at the instance of the applicant. The evidence indicates that the applicant has abetted

the said accused in the commission of crime. The offence is of serious nature and hence, the application be rejected.

5. I have gone through the FIR and the other documents on record. From the FIR, it is apparent that the Accused No.1 was acquainted with the family and used to visit their house frequently. The victim and her brother had accompanied Accused No.1 as he was supposed to visit canteen. It is also apparent that the Accused No.1 used to visit canteen for purchasing certain goods and the victim and her brother had accompanied him. The applicant had allegedly told the victim to go to canteen alongwith Accused No.1. The victim was accompanied by her brother. The alleged act of sexual assault is attributed to Accused No.1. The victim has alleged that on complaining about the incident to the applicant, who is her mother, she has not taken any action and on the contrary, disbelieved her version. It is thus apparent that the applicant is implicated as a person who has allegedly abetted the crime. There is no evidence on record to show that the applicant had acted in connivance with the Accused No.1, who had

committed the alleged act. The applicant is in custody from the date of arrest. Investigation is completed and the charge-sheet is filed.

6. In the circumstances, the applicant cannot be subjected to further detention and the case for grant of bail is made out. Hence, I pass the following order :-

ORDER

- (i) Criminal Bail Application No.3159 of 2018 is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with C.R.No.210/2018 registered with Meghwadi Police Station, Mumbai, on furnishing PR bond in the sum of Rs.25,000/- with one or two solvent local surety in the like amount;
- (iii) The applicant shall report the concerned police station once in a month on every first Monday between 11.00 a.m. and 1.p.. till further orders;
- (iv) Application is disposed off.

(PRAKASH D. NAIK, J.)