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

CRIMINAL BAIL APPLICATION NO.18 OF 2019

Dashrath Balu Kesarkar ..Applicant.

V/s.

The State of Maharashtra ..Respondent.

Mr.Shashikant P.Chaudhari with Mrs.Snehal S.Chaudhari, Mr. Nilesh G.Tank and Mr.Prnot P.Pawar i/b. Maharashtra Law Associates for the applicant.

Smt. J.S.Lohokare, APP for the respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 7, 2019

P.C.:-

Heard learned counsel for the applicant and learned APP for the State.

2. In crime No.48/2018 for the offences punishable under section 354D of the Indian Penal Code read with sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act' for short) registered with Nesari police station, District Kolhapur, the applicant came to be arrested on October 5, 2018 and was subjected to custodial interrogation.

3. The applicant came to be charge-sheeted for the aforesaid crime and his regular bail application came to be rejected as such this application.

4. The contention is, the applicant, out of village politics, is falsely implicated in the crime.

5. Learned APP opposed the application on the ground that there is sufficient material, including the statement under section 164 of the Criminal Procedure Code recorded by the Magistrate which involves the applicant in the crime in question.

6. So far as offence under section 354-D of the IPC is concerned, the same is punishable for a maximum of five years, so also for an offence under section 8 of the POCSO Act. For attracting section 4 of the POCSO Act, ingredients of section 3 of the said Act are required to be satisfied. It is worth to appreciate that the necessary ingredients of sections 3 and 4 are not satisfied. The maximum punishment provided under sections 8 and 12 of the POCSO Act is five and three years respectively.

7. There is no iota of evidence which speaks of presence

of any other witness, apart from the fact that the applicant is a senior citizen.

8. The applicant is already charge-sheeted.

9. That being so, it is ordered that the applicant be released on bail in crime No.48/2018 for the offences punishable under section 354D of the Indian Penal Code read with sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act' for short) registered with Nesari police station, District Kolhapur upon furnishing P.R. bond of Rs.25,000/- with one surety in the like amount.

10. Till the framing of the charge-sheet, the applicant shall not enter the jurisdiction of the Nesari police station, District Kolhapur.

11. The applicant shall not influence the witnesses or tamper with the prosecution evidence.

12. The application stands allowed in the above terms.

(NITIN W. SAMBRE, J.)