

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.77 OF 2019

Ashok Vitthalbhai Patel @ Vaghasia, Age 48 years, Occ.Business, R/o.A-602, Pawapuri Apartment, Ashok Nagar, Kandivali (East), Mumbai-400 101.	Applicant
versus	
The State of Maharashtra and others	Respondents

Mr.H.S.Anand I/by A.V.Patwardhan for applicant.
Mr.S.R.Agarkar, APP, for State.
Mr.Suryawanshi, Police Inspector, Samtanagar Police Station,
present.
Mr.Hemang Jariwala I/by Auroma Law for respondent no.3.

CORAM : PRAKASH D. NAIK, J.

DATE : 29th January 2019

PC :

1. This is an application for bail u/s 439 of Code of Criminal Procedure in connection with CR No.821 of 2018 registered with Samata Nagar Police Station for offence under Sections 354, 354(D) of Indian Penal Code.

2. The FIR was lodged on 3rd December 2018 and on the same day the applicant was arrested. The complainant is the mother of victim. It is alleged that on 3rd December 2018 the victim aged about 13 years had gone to school. After returning home she had disclosed that the victim had boarded the auto rickshaw. One unknown person was sitting in the rickshaw. She further stated that the

unknown person had hit her by his elbow and on the chest of the victim and thereafter he also touched her chest. The FIR was registered and investigation proceeded. The charge sheet has been filed. Subsequently pursuant to registration of FIR, the complainant had forwarded a letter dated 15th December 2018 to police stating that the complaint was lodged on account of misunderstanding. The statement of victim was recorded on 19th December 2018 u/s 161 of Cr.P.C in which it was stated that the accused was sitting in auto rickshaw besides her. While picking up his mobile phone from his pocket his elbow had touched her chest. While he was talking on phone his hand had touched her shoulder. She informed the same to her mother. She pointed out the said person to her mother who shouted and the accused was apprehended. The investigation papers also show that the victim has refused to give a statement u/s 164 of Cr.P.C. It is thus apparent that the version of victim is contrary to FIR. Apparently the complainant and the victim have now contended that the complaint was registered out of misunderstanding. The applicant is in custody from the date of arrest and further custody of applicant is not necessary.

3. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.77 of 2019 is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with CR No.821 of 2018 registered with Samata Nagar Police Station, on furnishing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount;

(iii) The application is permitted to furnish cash security in the sum of Rs.20,000/- for a period of four weeks.

(PRAKASH D. NAIK, J.)

MST