

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

CRIMINAL BAIL APPLICATION NO. 408 OF 2019

Atharva Ratan Bhaskar ... Applicant

Versus

The State of Maharashtra ... Respondent

Ms. Anjali Patil for Applicant.

Ms. Rutuja Ambekar, APP for Respondent – State.

CORAM : NITIN W. SAMBRE, J.

DATE : FEBRUARY 20, 2019.

P.C. :

. The Applicant is seeking regular bail in Crime No. 236 of 2018 for an offence punishable under Sections 376 of Indian Penal Code (for short, 'IPC') and Sections 7 & 8 of Protection of Children from Sexual Offences Act (for short, 'POCSO Act').

2. Co-accused Prathamesh Tushar Yande – a Juvenile offender is son of Dipali Tushar Yande, who was running a Day Care Center, wherein daughter of the complainant was kept as both the parents were working. The prosecution has alleged that the Applicant along with said juvenile

offender has committed an offence punishable under Section 376 of IPC read with Sections 7 & 8 of POCSO Act. After arrest on 30th August 2018 the Applicant came to be chargesheeted whereas Prathamesh, a Juvenile offender is already released.

3. In the aforesaid background, the submissions are, apart from the fact that the maximum punishment is only five years, further detention of the Applicant is not warranted, as the investigation in the matter is completed and chargesheet is filed. It is claimed that the Applicant is a student and there are no criminal antecedents.

4. *Per contra*, the learned APP opposed the claim on the ground that statement of witnesses in categorical terms established the involvement of the Applicant in the serious crime.

5. Having considered the rival submissions, what is noticed is, the ingredients of Sections 3 and 4 of POCSO Act are not satisfied. That being so, whether the offence under Section 376 of IPC is made out, is an issue which can be addressed at the stage of trial considering the fact that there are no criminal antecedents, the Applicant is behind bars for more

than five months and maximum punishment provided under the said Section is for five years, a case for grant of bail is made out. Hence, the following order.

ORDER

- (A) The Applicant be released on bail in Crime No. 236 of 2018 for an offence punishable under Sections 376 of Indian Penal Code and Sections 7 & 8 of Protection of Children from Sexual Offences Act on executing PR Bond of Rs.25,000/- with one surety in the like amount.
- (B) The Applicant shall neither tamper the evidence of prosecution nor influence the prosecution witnesses.

6. Criminal Bail Application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)