

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 573 OF 2019

Vijayprakash Mohanlal Yadav

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. Shailendra Mishra I/by ARM Legal for the Applicant.

Mr. S.S. Hulke APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 22nd MARCH, 2019.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 310 of 2018 dated 23rd May 2018 registered with Santacruz Police Station, Mumbai under Sections 354-A, 363, 376(2)(I) and 506 of the Indian Penal Code and under Sections 5(m), 6 and 12 of the Protection of Children From Sexual Offences Act, 2012 (POCSO Act), now culminated into POCSO Case No. 594 of 2018.

2 Heard the learned counsel appearing for the Applicant and the learned APP. Perused the charge-sheet.

3 The prosecutrix in the present crime was aged about 6

years on the date of lodgment of the crime and with a view to protect her identity and in consonance with the provisions of Section 228(A) of the Indian Penal Code and Section 33(7) of the POCSO Act, the detailed narration of the facts mentioned in the first information report and in the statement of the prosecutrix are hereby avoided.

4 The first information report is lodged by the mother of the prosecutrix.

It is the prosecution case that, on the date and time of the incident, when the prosecutrix had been to her friend's house for playing and was standing in the stair-case, the Applicant who is a mechanic by profession, came there and committed sexual assault as contemplated under the amended provisions of Section 375 of the Criminal Procedure Code on the prosecutrix. The first information report and the statement of the prosecutrix indicate that, the Applicant attempted to commit penetrative sexual assault on her however, when the prosecutrix started crying loudly, the Applicant got scared and fled away from the scene of offence. The Applicant has been arrested by the police on the basis of the description given by the prosecutrix to the police.

5 The record *prima facie* indicates that, the police have not conducted test identification parade of the Applicant till date to further ascertain the identity of the Applicant. The learned APP, on instructions, submitted that the police after obtaining opinion from the concerned, will conduct test identification parade, if necessary.

6 In view of the above, the Applicant can be released on bail.

Hence the following order:-

- a) The Applicant shall be released on bail in CR No. 310 of 2018 dated 23rd May 2018 registered with Santacruz Police Station, Mumbai, on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- b) After his release from Jail, the Applicant shall attend the Santacruz Police Station, on every first Monday of the month between 11.00 a.m. and 2.00 p.m.
- c) After his release from Jail, the Applicant shall attend all the dates before the Trial Court unless precluded on medical reasons.

- d) Any two consecutive defaults in complying with the afore-stated conditions will attract the provisions of cancellation of bail.
- e) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

7 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)