

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

CRIMINAL BAIL APPLICATION NO.590 OF 2019

Kamleshkumar Dinesh Saket

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Ms.Smita i/b. Aditya Gore, Advocate for Applicant.
- Mr.Prashant Jadhav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 27th JUNE, 2019

P.C. :

1. The Applicant is seeking bail in connection with C.R.No.104/17 registered with Chakan Police Station, Pune, under sections 363 of the Indian Penal Code and under section 12 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO').

2. The FIR was lodged on 18/01/2017 by one Dinesh Gangaprasad Sen. According to him, on 11/01/2017, he had

gone to open his shop at Lumex Company. His daughter was alone in the house. When he returned home after his duty, he found that his house was locked. His daughter was not found anywhere. He suspected that the present Applicant had taken his daughter away on some inducement. On the basis of this suspicion he lodged his FIR.

3. The investigation commenced. However, after a few days also nothing materialized. Thereafter the supplementary statement of the first informant was recorded on 08/03/2017. That statement shows that the first informant himself had made search for his daughter and he came to know that his daughter was with the present Applicant at village Mudariya Chavan state Madhya Pradesh. The first informant went to Mauganj Police Station and the police officer attached to that police station brought his daughter back. The statement of victim was recorded on 09/03/2017. She has stated that she used to go to her father's company to give him tiffin. She came in contact with the present Applicant and they were on visiting terms. On

11/01/2017 she was not well. At about noon, the Applicant came to her house. The victim expressed that she was missing her mother and that she wanted to meet her mother and allegedly the present Applicant promised the victim to take her to her mother and on that promise both of them went to village Mudariya Chavan in Madhya Pradesh. Though, the victim was telling the Applicant to drop her at her mother's place, on some pretext or the other he asked her to wait for some days, as she was not well. For a few days the victim resided in his house with his family members. She used to be with the ladies of the family and the present Applicant used to be in the company of the male members of the family. There were no sexual advances alleged against the Applicant. There are no allegations of that nature. Finally on 03/03/2017, the first informant came there and took her back. This is the entire material in the entire charge-sheet.

4. Heard learned Counsel Ms.Smita for the Applicant and learned APP Mr.Prashant Jadhav for the State.

5. Learned Counsel for the Applicant submits that no offence in the entire charge-sheet is made out against the Applicant. She submitted that the Applicant himself is a young boy of 21 years age. Learned APP opposed for grant of bail. According to him the offence was serious.
6. Perusal of the order passed by the Court of Sessions at Pune, shows that even the learned Judge has observed that no offence u/s 12 of POCSO is made out and yet the bail Application was rejected because section 363 of IPC was applied. From the record it appears that the Applicant has not taken any wrong advantage of the victim by making any sexual advances. Though, it appears that he had taken the victim with him, without the permission of her parents, the victim's statement indicates that she had voluntarily gone with him and had voluntarily been staying with him. There does not appear to be any compulsion on the part of the Applicant. Taking these facts into account, there is no reason as to why the Applicant should be detained any further as an under trial prisoner. The Applicant deserves to be released on bail. Hence, the following order :

ORDER

- (i) The Applicant is directed to be released on bail in connection with C.R.No.104/17 registered with Chakan Police Station, Pune, on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)