

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

ANTICIPATORY BAIL APPILCATION NO. 455 OF 2019

Mohammad Alam Mohammad Sharif Khan ... Applicant
Vs.
The State of Maharashtra ... Respondent

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Ms. Neha M. Patil for the applicant.
Mr. Prashant Jadhav, APP for the Respondent-State.
Mr. Vilas Kadam Police Inspector, Kandivali Police Station is present.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 21st FEBRUARY, 2019.**

P.C.

1. This is an application for anticipatory bail in connection with CR No. 417 of 2018 registered with Kandivali Police Station. First Information Report was lodged on 12th August, 2018 for the offence punishable under Section 354 read with 34 of Indian Penal Code and Section 8 and 12 of POCSO Act.

2. The case of the prosecution is that the victim aged about 16 years was proceeding to her house. Co-accused dragged her and caught her hand. He was accompanied by applicant. It is alleged that the applicant pulled the 'dupatta' of the victim and stated that victim should be pulled down to accomplish their work. Victim

started shouting and both ran away from the place of incident. Co-accused was arrested and subsequently granted bail.

3. Applicant had preferred application for anticipatory bail before the Sessions Court which was rejected on 21st December, 2018.

4. Learned counsel for the applicant submitted that co accused was arrested and granted bail. Chargesheet is filed against the arrested accused. Learned counsel for the applicant submits that considering the role assigned to the applicant custodial interrogation of the applicant is not necessary. Prosecution has not issued any notice under Section 41-A of the Code of Criminal Procedure to the applicant. Applicant was not absconding.

5. However, learned APP pointed out role attributed to the applicant in the FIR. It is submitted that co-accused was arrested and granted bail. It is further submitted that applicant has one criminal antecedent registered with Kandivali Police Station for the offence punishable under Section 324, 323, 504 of Indian Penal Code.

6. First Information Report was lodged on 12th August, 2018. Applicant had preferred an application for anticipatory bail before the Sessions Court which was rejected on 21st December, 2018.

First Information Report mentions the role played by the applicant. Considering the factual matrix of this case, no case for grant of relief under Section 438 of Code of Criminal Procedure is made out. Application is rejected.

(PRAKASH D. NAIK, J.)