

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

CRIMINAL BAIL APPLICATION NO. 660 OF 2019

Rafiq s/o. Nazir Shaikh	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.A.M. Saraogi for Applicant.
Mr.R.M. Pethe, A.P.P. for Respondent-State.
Mr.R.Sawant, PSI, Malwani Police Station, Mumbai.

CORAM : A.S. GADKARI, J.

DATE : 3rd May 2019.

P.C. :

1] This is an application under Section 439 of the Code of Criminal Procedure for bail in C.R. No. 501 of 2018 dated 20/07/2018 registered with Malwani Police Station, Mumbai, for the offence punishable under Section 354, 509, 323 of the Indian Penal Code and Section 8, 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2] Heard the learned counsel for the applicant and the learned APP. Perused the chargesheet.

3] The prosecutrix in the present crime was aged about 16 years of age 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 allegations against the applicant is that, prior to lodgment of the present crime, on 2 to 3 occasions the applicant passed lewd comments against the prosecutrix and on the date of lodgment of the crime, the applicant hold hand of the prosecutrix and touched her inappropriately. That the persons present near the scene of offence rescued the prosecutrix from the clutches of the applicant and thereafter, the present crime is registered.

During the course of investigation, the applicant came to be arrested on 1st October 2018 and after completion of investigation, police have submitted chargesheet.

5] The facts narrated in the forgoing paragraphs are the facts emerged on record from the first information report and other statements of witnesses. No other overt act is attributable to the

applicant. It is submitted that, there are no antecedent at the discredit of the applicant.

7] The police have already completed the investigation and submitted the chargesheet. No purpose will be served by further keeping the applicant in incarceration and the applicant can be released on bail.

Hence, the following order :-

- (i) The Applicant be released on bail in C.R. No. 501 of 2018 dated 20/07/2018 registered with Malwani Police Station, Mumbai, on his furnishing P.R. bond of Rs.15,000/- with one or two local sureties in the like amount.
- (ii) After his release from Jail, the applicant shall attend all the dates before the trial Court, unless exempted by the concerned Court.
- (iii) After his release from Jail, the applicant shall attend the Malwani Police Station on every first Monday of the month between 10.00 am and 12.00 noon till completion of trial.

- (iv) In case of two consecutive defaults in complying with the aforesaid conditions, the Prosecution will be at liberty to file an application for cancellation of bail.
- (v) Applicant shall not tamper with the evidence and/or interfere with the process of investigation.
- (vi) Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]