

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 972 OF 2019**

NOOR MOHAMMED FIROZAPPLICANT
SHAIKH

Vs.

THE STATE OF MAHARASHTRARESPONDENT

Ms. Afshan G. for the Applicant.

Ms. Rutuja Ambekar APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 12th APRIL, 2019.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 138 of 2019 dated 11th March, 2019 registered with Vakola Police Station, Mumbai under Sections 341, 354, 354(D) of the Indian Penal Code and under Section 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 record.

3 The first information report is lodged by the prosecutrix

herself, who was aged about 16 years on the date of lodgment of the crime. 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 facts mentioned in the first information report and in the statement of the prosecutrix are hereby avoided.

4 The allegation against the Applicant is that, he in the month of April, 2018 at about 1.00 a.m. held the hand of the elder sister of the prosecutrix. That, after about a period of 3 months, it is alleged that, the Applicant held hand of the prosecutrix. That, the said act was repeated on 10th March, 2019. It is also alleged that, on one of the occasions, the Applicant followed the prosecutrix and stalked at her. In the premise, the present crime is registered on 11th March, 2019.

During the course of investigation the Applicant came to be arrested on 11th March 2019 itself and since then he is behind bars.

5 Apart from the facts mentioned hereinabove, there is no other overt act attributed to the Applicant. The Applicant is aged about 20 years. The Applicant is in jail for more than 30 days. The investigation of the present crime is on the verge of completion.

The learned APP submitted that, if this Court is inclined to release the Applicant on bail, stringent conditions may be imposed upon him as the Applicant is repeatedly indulging in the similar type of act.

6 After taking into consideration the peculiar facts of the present case, this Court is of the considered view that, the further detention of the Applicant in jail is not necessary and the Applicant can be released on bail.

Hence following order.

- a) The Applicant shall be released on bail in CR No. 138 of 2019 dated 11th March, 2019 registered with Vakola Police Station, Mumbai on his furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount.
- b) After his release from Jail, the Applicant shall not enter the jurisdiction of Vakola police station till the conclusion of trial, if the police submits charge-sheet.
- c) After his release from Jail, the Applicant shall

attend each and every date before the Trial Court unless exempted by the concerned Court.

d) After his release from Jail, the Applicant shall not try to contact the prosecutrix and/or her sister in any manner or mode.

e) Any two consecutive defaults in complying with the afore-stated conditions will attract the provisions of cancellation of bail.

f) 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.)