

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Bail Application NO. 1287 OF 2019

Vijay Prakash Ghodke

...Applicant

Versus

The State Of Maharashtra

...Respondent

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Mr. Abhishek Avachat a/w. Navnath Khate i/b. Umesh Mankapure,
Advocate for the Applicant.

Mr. Prashant Jadhav, APP, for the Respondent-State.

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CORAM : SARANG V. KOTWAL, J.

DATE : 19th SEPTEMBER, 2019

P.C.

1. The applicant is seeking his release on bail in connection with C.R. No.7/2019 registered at Sangola Police Station under Section 354-D(i) of I.P.C. and Sections 8 & 12 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the 'POCSO Act').

2. The FIR is lodged on 1.1.2019 by mother of the victim about the offence committed by the applicant. FIR is based on the information given by the victim herself. The informant had seen the applicant near the victim and he was misbehaving with the

victim. Therefore, the informant and others tried to catch him but he ran away on his motor-cycle. The incident had taken place on 1.1.2019 at about 1:00 p.m.. In this context, the statement of the victim is important. She has stated that she was staying at Sangola at her relative's place for studying. She was 16 years of age and was studying in 11th standard. Since one month prior to the incident, the applicant and his friend Atul Bile were following her constantly. Whenever the victim used to go to the S.T. Stand for going to her college, the applicant and his friend used to follow her. Initially she ignored this, but, thereafter she informed about it to her relatives with whom she was residing. On 1.1.2019, when she was coming back from S.T. stand, the applicant and his friend followed her. While she was travelling in the bus, they followed the bus on a two wheeler. She got down at Mali Vasti stop and started walking towards her house. Even then the applicant followed her. When she was in the court yard, the applicant and his friend entered the court yard. The applicant held her hand and pulled her towards him and tried to make her sit on his vehicle. The victim raised shouts. Her relatives came there. The applicant got scared and tried to go away from the spot on his bullet motorcycle

however the motorcycle slipped and he fell down. The victim's relatives caught hold of him and produced him before the police and FIR was lodged.

3. I have heard Shri Avachat, learned Counsel for the applicant and Shri Jadhav, learned A.P.P. for the State. The investigation is over and the charge-sheet is filed. The applicant was arrested on 2.1.2019 and since then he is in custody.

4. Learned Counsel for the applicant submitted that the offence under Section 354-D of I.P.C. provides punishment of maximum three years on first conviction. The offence is bailable. He submitted that the offence under Section 8 of POCSO is not made out and even for the offence punishable under Section 12 of POCSO the maximum punishment provided is three years. The applicant is already in custody for more than nine months.

5. Learned APP pointed out a resolution of the Grampanchayat which shows that the applicant was harassing other girls in the village. He submitted that the applicant already had one similar offence registered against his name. He, therefore, opposed grant of bail to the applicant.

6. I have considered all these submissions. At this stage, there is nothing to doubt the version of the victim. The offence of stalking and the offence punishable under Section 12 of POCSO are made out. However, there are no allegations pertaining to the offence punishable under Section 8 of POCSO. Therefore, obviously the maximum punishment which can be awarded to the applicant is three years.

7. Though history of the applicant shows that he was a nuisance in the village and was giving trouble to other girls, his activities can be curbed by imposing suitable conditions. Since the applicant is already in custody for more than nine months, at this stage, he can be granted bail with strict conditions. Hence, the following order :

ORDER

- i. The applicant is directed to be released on bail in connection with C.R. No.7/2019 registered at Sangola Police Station, on his furnishing a P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

- ii. The applicant shall not enter Taluka Sangola, District Solapur till conclusion of the trial.
- iii. The applicant shall not try to contact anybody from village Pachegaon and Mali Vasti area, except his own family members.
- iv. The applicant shall provide his residential address where he will be residing till conclusion of the trial to the Investigating Officer.
- v. The applicant shall attend the nearest police station from his residence on every Sunday between 10:00 a.m. to 11:00 a.m. till conclusion of the trial.
- vi. The applicant shall attend all dates in the trial Court.
- vii. Any default made by the applicant of any of these conditions shall entail cancellation of this bail order.
- viii. The application is disposed of accordingly.

(SARANG V. KOTWAL, J.)