

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1410 OF 2019**

Manoj D. Visapurkar
Versus
State of Maharashtra

...Applicant

...Respondent

Mr. Rawat Mohan for the Applicant

Mr. S. V. Gavand, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 12th JUNE 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 55 of 2019 registered with the Powai Police Station, Mumbai, for the alleged offences punishable under Sections 354 and 376 of the Indian Penal Code ('IPC') and Sections 8 and 12 of the Protection of Children from Sexual Offences Act ('POCSO').

3 Perused the papers. According to the prosecution, the incident took place on 29th January 2019, when the victim girl aged 11 years was

travelling in a school bus, which was driven by the applicant. It is the prosecution case that the victim girl informed the school authorities, that the applicant had touched her inappropriately on 29th January 2019. It appears that the school authorities informed the parents, however, they denied consent to take the matter to the police. As the parents were refusing to lodge a complaint, the school authorities informed the police about the act vide letter dated 30th January 2019. Pursuant to the said letter, the complainant PI Tejasvi Pawar lodged a formal complaint on 31st January 2019 stating the aforesaid.

In the course of investigation, the statement of the victim girl aged 11 years, studying in standard V was recorded in question and answer form. Her statement reveals that on 29th January 2019, the applicant made the victim girl sit next to him and touched her private part. The history narrated to the doctor which is on page 52 reads as under:

“History narrated by mother of survivor, on 29-01-19, while my daughter was returning back to home by her regular school van, then driver of the bus called her to the driver's seat as one person had vomitted in the bus so there was no place for her to sit. Then she went near driver seat then the said accused inserted his fingers into her slacks and tried to insert his finger inside her private parts. Then when her home

arrived she got down. So she was having pain while urinating for two days.”

4 The said incident is corroborated by the victim's friend, also aged 11 years, who was present in the bus at the relevant time. Although learned counsel for the applicant submitted that the PI was over zealous in recording the complaint, though the parents had not come forward, there is no substance in the same. Under Section 21 of POCSO, it is the obligation of the authorities when it comes to their knowledge that an offence has been committed under the POCSO, to inform the police, which was done by the authorities, pursuant to which, PI registered the complaint under Section 354 IPC, as the school authorities had informed them in the letter that the applicant had inappropriately touched the victim girl. Subsequently, when the statement of the victim girl was recorded, after the details of the inappropriate touch were mentioned, Section 376 of IPC was added. *Prima facie*, no infirmity can be found in the manner in which the matter was investigated.

5 Considering the aforesaid, this is not a fit case to enlarge the applicant on bail. Accordingly, the application is rejected. However,

having regard to the age of the victim girl and her fiend i.e. 11 years, the trial of the applicant is expedited.

6 The learned Sessions Judge to dispose of the said case as expeditiously as possible and in any event, within 12 months from the date of receipt of this order.

7 The application is accordingly disposed of.

8 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.