

Anand

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

BAIL APPLICATION NO. 1915 OF 2019

Paul Micheal Vaz .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Prafullakumar B. Patil, Advocate, for the Applicant
Ms Veera Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 06.09.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 94 of 2019 registered with the Malvani Police Station, Mumbai, for the alleged offences punishable under Section 354 of the Indian Penal Code and under Sections 9(n) and 10 of the Protection of Children from Sexual Offences Act.

3. Perused the papers. The Applicant is the father of the victim girl, aged 5 years. According to the Complainant (wife of the Applicant), the Applicant would touch the victim girl inappropriately on her private part. A perusal of the statement of the victim girl, aged 5 years shows that the Applicant would touch her private part and at times

would make her sleep on his stomach. Learned counsel for the Applicant submits that the Applicant has been falsely implicated in the said case because of the marital discord between the Applicant and the Complainant. He submits that the allegations as against the Applicant are false and baseless. Learned counsel for the Applicant has tendered an Affidavit-cum-undertaking of the Applicant. The said Affidavit-cum-undertaking is taken on record and marked as “X” for identification. In the said Affidavit-cum-undertaking, the Applicant has undertaken not to contact the Complainant or the victim girl till the conclusion of the trial. He has also undertaken not to enter the jurisdiction of the Malvani Police Station, Mumbai and has undertaken to abide by the terms & conditions that may be imposed. Whether or not the allegations are true or false, is a matter which will be decided by the Sessions Court. The Applicant is in custody since 23.01.2019. Investigation is complete and charge-sheet is filed.

4. Considering the aforesaid and in particular, the Affidavit-cum-undertaking tendered by the Applicant, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

(i) The Applicant be released on **cash bail** in the sum of Rs. 15,000/-, **for a period of six weeks;**

- (ii) The Applicant shall within the said period of six weeks, furnish P. R. Bond in the sum of **Rs. 15,000/-** with one or two sureties in the like amount;
- (iii) The Applicant shall report to the investigating officer of the concerned police station on the **first Saturday of every month** between **10.00 a. m. and 12.00 noon** till the conclusion of the trial;
- (iv) The Applicant shall not enter the jurisdiction of the Malvani Police Station, except for the purpose of attending the police station;
- (v) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant / victim girl, witnesses or any person concerned with the case;
- (vi) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (vii) The Applicant to co-operate with the conduct of the trial;
- (viii) The Applicant shall file an undertaking with regard to Clauses (ii) to (vii) in the trial Court, within two weeks of his release;
- (ix) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of

the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

5. The Application is allowed in the aforesaid terms and is accordingly disposed of.

6. 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.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)