

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

**CRIMINAL BAIL APPLICATION NO. 1884 OF 2018**

Santosh Shamrao Deshmane  
Age 40 years, Occ. Driver,  
Residing at Sai Baba Nagar,  
Anand Nagar, Jogeshwari (W.),  
Mumbai - 400 102

... Applicant

V/s.

The State of Maharashtra

... Respondent

- Ms.Mallika Ingle a/w. Mr.R. Thakkar i/b. Mr.Bhanudas L. Jagtap for the Applicant.
- Mrs.G.P. Mulekar, APP for the Respondent.

**CORAM : PRAKASH D. NAIK, J.**

**DATE : 13<sup>th</sup> FEBRUARY, 2019.**

**P.C. :**

1] The Applicant is seeking bail in C.R. No.16 of 2018 registered with Oshiwara Police Station, Jogeshwari (W.), Mumbai, for the offence punishable under Section 377, 506(2) of the Indian Penal Code [*for short, "IPC"*] and Section 6, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012 [*for short, "POSCO Act"*].

2] The Applicant was arrested on 08/01/2018. The complaint was lodged by wife of the Applicant alleging that the Applicant had

sexually assaulted their son aged about 14 years. The First Information Report [*for short, "FIR"*] and the statement of the victim child refers to the alleged offence committed by the Applicant. It is alleged that the Applicant had sexually abused the victim. The investigation is completed and the Charge-sheet was filed.

3] Learned counsel for the Applicant submits that the Applicant is the father of the victim. It is highly impossible that he would commit the alleged offence. He has been falsely implicated by his wife. It is submitted that there was monetary dispute between the Applicant and his wife (complainant), which has resulted in launching the false prosecution against the Applicant. Learned counsel pointed out that, the statement of Mr. Anand Ashok Deshmane, who is the cousin of the Applicant, wherein he has referred to the amount received by the complainant from the Government, which was being allegedly demanded by the Applicant and there were disputes between them. Learned counsel also pointed out the statement of the employer of the Applicant dated 9<sup>th</sup> February, 2018, in which he has stated that the Applicant was employed with him since 10 years and he has never noticed any objectionable conduct of the Applicant. Learned counsel further submits that the medical evidence does not indicate any injury sustained by the victim.

4] Learned APP, however, submits that the complainant as well as the victim had narrated the incident in the FIR. The victim has also referred to the incident which has occurred before 5 years ago. There is no reason for the victim to falsely implicate the Applicant.

5] It is further submitted that the victim child has stated that he was threatened by the father and therefore he had not reported the earlier incident.

6] I have perused the charge-sheet. The Applicant, complainant and the victim were residing together. There was no complaint about the earlier incident which had occurred 5 years ago. The medical evidence is silent. The statement of witness also indicate that there was dispute between the Applicant and his wife. It is also noticed that the Applicant is in custody from 8<sup>th</sup> January, 2018, which is almost for the period of 1 year. The trial has not yet commenced. In these circumstances on certain conditions, bail can be granted.

7] Hence, I pass following order :

**ORDER**

- (i) Criminal Bail Application No.1884 of 2018 is allowed and disposed off;

- (ii) The Applicant is directed to be released on bail in connection with CR No.16 of 2018 registered with Oshiwara Police Station, on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The Applicant shall not enter into the jurisdiction of Oshiwara Police Station and shall not approach the victim or the complainant.
- (iv) The Applicant shall not tamper with the evidence.
- (v) The Applicant shall furnish the details of his residential address to the Investigating Officer after his release on bail.

**[PRAKASH D. NAIK, J.]**