

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

BAIL APPLICATION NO.2174 OF 2019

Pankaj Chandrashekhar Jha	.. Applicant
<i>Vs.</i>	
State of Maharashtra	.. Respondent

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Ms.Poonam Bhosale, Advocate for the Applicant.
Ms.P.P. Shinde, APP for Respondent - State.
PI Nitin S. Ladakhe, Kasturba Marg Police Station, Mumbai,
present.

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**CORAM : PRAKASH D. NAIK, J.
(CHAMBER MATTER)**

DATED : SEPTEMBER 25, 2019.

P.C. :

This is a second application for bail vide order dated 18th January, 2019, the previous application viz. Bail Application No.2879 of 2018 was sought to be withdrawn with liberty to prefer an application for bail if trial does not commence within a period of six months.

2 The applicant is arrested on 29th April, 2018 in connection with C.R.No.328 of 2018, registered with Samta Nagar Police Station, Mumbai, for the offences punishable under

Sections 354, 363, 341, 342 and 509 of Indian Penal Code (“IPC”, for short) and under Sections 8 and 12 of the Protection of Children From Sexual Offences Act, 2012 (“POCSO Act”, for short). Admittedly there is no progress in the trial even charge has not been framed. The applicant is in custody for the period of about one and half year.

3 The case of the prosecution is that the applicant – accused was neighbour of the victim. He had called the victim in his house and caught hold of her hand. It is also alleged that the accused had removed his clothes at the time of incident. The prosecution is relying on the statement of the victim and her mother. The victim managed to unlock the door and came out of room. . Charge is under Sections 354, 363, 341, 342 and 509 of IPC and under Sections 8 and 12 of the POCSO Act.

4 Learned advocate for applicant submitted that victim was not sexually assaulted. The accused had allegedly caught hand of the victim. The offences under Sections 8 and 12 of POCSO are not made out. Trial has not commenced. There are no criminal antecedents against the applicant. The family of victim has shifted to another place. Learned APP submitted that the offences under IPC and POCSO Act are made out.

5 The applicant is in custody from 29th April, 2018. trial has not commenced. It is not clear as to when the trial would be concluded. Prosecution case is that the accused had caught hand of victim and that he was without clothes. It is also alleged that, information was given to police and police had arrived and the accused was allowed to wear clothes and taken in custody. The charge-sheet do not contain statement of any policemen indicating the aforesaid fact. The arrest panchanama which is in the nature of format is silent with regards to fact that at the time when accused was apprehended, he was without clothes and allowed to wear clothes. Considering factual matrix of this case and the aforesaid circumstances, bail can be granted to applicant on certain conditions.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.2174 of 2019, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.328 of 2018, registered with Samta Nagar Police Station, Mumbai, on his

furnishing P.R. Bond in the sum of Rs.25,000/-,
with one or more sureties in the like amount;

- (iii) Applicant shall report the Samta Nagar Police Station, Mumbai once in a month on first Saturday of the month between 11:00 a.m. to 01:00 p.m., till the conclusion for the trial;
- (iv) Applicant shall not tamper with the evidence and shall not approach the victim and the other witnesses;
- (v) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)