

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

BAIL APPLICATION NO.2705 OF 2019

Javid Khatri @ Machhar Mohd.

Javid Hanifbhai

... Applicant

Vs

State of Maharashtra

... Respondents

Mr. Manoj Mohite i/by Mr. Viral Rathod for the Applicant.
Mr. Ajay Patil , APP for the Respondent-State.

CORAM : SANDEEP K. SHINDE J.

DATE : 5th NOVEMBER, 2019

P.C. :

Heard learned counsel for the applicant and the learned APP for the State.

2 Applicant-accused in Crime No.78 of 2019 registered under Sections 376(2)(i) of the Indian Penal Code, 1860 and Sections 4,8 and 12 of the Protection of Children From Sexual Offences Act, 2012 ('**POCSO**' for short) seeks release on bail. Victim's statement under Section 24 of the POCSO as well under Section 164 of the Code of Criminal Procedure, 1973 ('**Cr.P.C.**' for short) are

consistent with the complaint filed by victim's mother.

3 Victim's age is 14 years and 7 months; whereas applicant is a married person aged 35 years. Victim and the applicant are residing in the same building.

4 Mr. Mohite, the learned counsel for the applicant, has pointed out glaring inconsistencies in the story of prosecution as well statement of victim's friend by name Alia, who has not manner in which alleged incident dated 1st April, 2019 occurred. Complaint indicates that the alleged sexual assault inflicted by the applicant on the victim was for the first time in January, 2019, however, complaint came to be filed on 8th April, 2019. Prosecution could not point out criminal antecedents though it is alleged in the complaint that applicant was allegedly creating terror in the building amongst residents.

5 Though there are apparent inconsistencies in the evidence of the prosecution but in view of the statement of the victim under Section 24 of the POCSO and another statement under Section 164 of the Cr.P.C., I am not

inclined to grant bail.

6 However, taking into consideration the evidence placed on record, the learned Special Court is requested to commence the trial at the earliest and preferably within six months from receipt of this order.

7 If the trial does not commence within six months, applicant is at liberty to renew the request for bail before this Court.

8 With the aforesaid liberty, application is disposed of.

(SANDEEP K. SHINDE, J.)