

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

CRIMINAL BAIL APPLICATION NO. 3155 OF 2018

Sandip Rajendrakumar Jaiswal		
Age 28 years, Occ. Welder,		
Residing at Room No.107, Hanuman		
Asha Nagar, Pestam Sagar Road No.2,		
Chembur, Mumbai		
(At present lodged in Jailor Group-I,		
Mumbai Central Prison, Mumbai)	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

- Mr.Raju D. Suryawanshi for the Applicant.
- Mr.S.R. Agarkar, APP for the Respondent.
- Mr.Dhube, P.I., Tilak Nagar Police Station.

CORAM : PRAKASH D. NAIK, J.

DATE : 13th FEBRUARY, 2019.

P.C. :

1] The Applicant is apprehending arrest in CR No.255 of 2018 registered with Tilak Nagar Police Station for the offence punishable under Section 363 of the Indian Penal Code [*for short, "IPC"*] and Section 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 [*for short, "POSCO Act"*].

2] The Prosecution case is that the victim had proceeded

towards public toilet situated near his house on 20th July, 2018. The Applicant caught him and committed the acts as stated in the First Investigating Report. The statement of the victim was recorded. On completing investigation the Charge-sheet is filed.

3] Learned counsel for the Applicant submits that Section 363 of IPC would not be attracted in this case. Section 8 of the POSCO Act is punishable with imprisonment for 5 years. It is submitted that Section 12 of the POSCO Act would also not attract maximum punishment for the laid offence is imprisonment for three years. The Applicant is in custody from 21/07/2018. Learned counsel also pointed out the history given to the Medical Officer before examination of the victim in which it is stated that the Accused had kissed the victim and other acts as mentioned in the FIR are not reflected. Learned APP submits that specific role has been attributed to the Applicant. Even after the incident, the Applicant alleged to have followed the victim.

4] I have perused the documents on record. The FIR has been registered on 21/07/2018, the Applicant is in custody from the date of arrest i.e. 21/07/2018, Section 363 of IPC is not attracted in the present case. Considering the allegations, as stated in the FIR and the

punishment provided thereunder, also considering that the Charge-sheet is already filed, on certain terms and conditions the Applicant can be granted bail.

5] Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.3155 of 2018 is allowed and disposed off;
- (ii) The Applicant is directed to be released on bail in connection with CR No.255 of 2018 registered with Tilak Nagar 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 tamper with the evidence and shall not approach the complainant or the victim;
- (iv) The Applicant shall report Tilak Nagar Police Station once in a month on every first Saturday between 11 am and 1 pm till further orders;
- (v) The Applicant shall attend the trial Court proceedings regularly unless exempted by the trial Court for some reason.

[PRAKASH D. NAIK, J.]