

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

CRIMINAL BAIL APPLICATION NO. 368 OF 2020

Abhishek Ramesh Thorat ...Applicant

Versus

The State of Maharashtra ...Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 261 OF 2020**

Umesh Shivram Thorat ...Applicant

Versus

The State of Maharashtra ...Respondent

.....

Mr. Sayaji Nangre a/w Mr. Kiran Varma i/b Mr. Rajeev Sawant & Associates, Advocate for the Applicant in Bail Application No. 368 of 2020.

Mr. Shailesh D. Chavan, Advocate for the Applicant in Bail Application No. 261 of 2020.

Mr. S. S. Pednekar, APP for the Respondent – State.

.....

CORAM : PRAKASH D. NAIK, J.

DATE : 2nd MARCH, 2020

PC :

1. The applicants in both these applications are seeking bail in connection with C.R. No. 207 of 2019 registered with Narayangaon Police Station, Dist: Pune (Rural) for offences punishable under Sections 384, 386, 504 & 506, r/w Section 34 of Indian Penal Code

(for short 'IPC') and Sections 16 & 17 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'). The applicant in Bail Application No. 368 of 2020 was arrested on 4th July, 2019 where as the applicant in Bail Application 261 of 2020 was arrested 7th August, 2019.

2. The prosecution case is that prior to 1 ½ months, the complainant and victim namely Yash Yevle were having liquor at Priti Bar and Restaurant. The Applicant alongwith co-accused visited the said Bar. It is further alleged that after having dinner at about 11.00 p.m. the complainant was about to leave, the co-accused Pavan Thorat asked the complainant to accompany him as he had some work with the complainant, hence, the complainant accompanied accused Pavan Thorat on his motor cycle, whereas, the applicant, victim and co-accused accompanied on the other motor cycle. It is further alleged that the complainant was taken at Lauiki Mountain at village Lauiki and at that time the complainant was forced to removes his clothes by co-accused Pavan Thorat. Victim was forced to remove his clothes. It is further alleged that thereafter, the complainant was made to sleep over the body of the victim Yash Yevle and co-accused Umesh Thorat allegedly took photographs of the complainant and victim. Thereafter, the complainant was threatened by co-accused Pavan Thorat that if he does not pay an

amount of Rs. 5,00,000/- to the co-accused, the photographs of the complainant and victim would be published on whats app and facebook. It is further alleged that co-accused Pavan Thorat withdrawn amount of Rs. 70,000/- and amount of Rs.1,00,000/- from the account of the complainant by using his debit card from the ATM machine. On the basis of these allegations, the FIR came to be registered. The respondents carried out investigation and during the course of investigation, the provisions of MCOC Act under Section 3(1)(ii), 3(4) was added. The sanction u/s 23 (2) of the MCOC Act was not granted. After completing investigation, charge-sheet was filed before the Ld. Special Court and the matter came to be number as Special Case (POCSO) No. 69 of 2019 and it is pending before the Ld. Additional Judge, Khed, Rajgurunagar, Dist. Pune.

3. Learned counsel for the applicants submitted that the complaint is false. There is no evidence of photographs being clicked by the accused. It is further submitted that no offence under the provision of POCSO Act are made out against the applicant. The victim child has lodged in FIR against the informant in the present case with Manchar Police Station vide C.R. No. 331 of 2019 for offences punishable under Sections 377 & 506 of IPC and Sections 4, 6, 8 of 12 of POCSO Act.

4. Learned APP submitted that the first informant has attributed overt act to the applicants. The statement of the victim child was recorded in which specific role has been attributed to the applicants.

5. I have perused the documents on record. The FIR was lodged on 3rd July, 2019. According to him the complainant was threatened from time to time and he had parted an amount of Rs. 3 Lacks during the period of about three months. It is pertinent to note that the victim child has lodged the FIR against the complainant in the present case alleging the offences as stated above. There is no evidence of photographs clicked by the accused. They are in custody from the date of arrest. Considering the factual matrix of this case, case for grant of bail is made out.

6. Hence, I pass the following order :

ORDER

- i) Bail Application Nos. 368 of 2020 & 261 of 2020 are allowed;
- ii) The applicants are directed to be released on bail in connection with C.R. No. 207 of 2019 registered with Narayangaon Police Station, Dist: Pune (Rural) on furnishing PR. bond in the sum of Rs. 25,000/- each with one or more sureties in

the like amount;

- iii) The applicants shall report Manchar Police police station once in a month on every first Saturday between 10.00 am. to 12.00 pm. till further order.
- iv) The applicants shall stay out of jurisdiction of Narayangaon Police Station, Dist: Pune (Rural) till further order.
- v) Bail Applications stand disposed of accordingly.

(PRAKASH D. NAIK, J.)