

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

CRIMINAL BAIL APPLICATION NO. 292 OF 2020

Mr. Zeeshan Hyder Khan
@ Shadid Prince Khan

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr. Rehan Jabali a/w Sumeet Vankadkar, Advocate for the Applicant.
Mr. Y. M. Nakhwa, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 16th MARCH, 2020

PC :

1. This is an application for bail in C.R. No. 421 of 2019 registered with Dahisar Police Station, Mumbai for offences punishable under Sections 354, 506 of Indian Penal Code and Sections 8 & 12 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'). The FIR was lodged on 4th September, 2019. The applicant was arrested on 5th September, 2019.

2. The case of the prosecution is that, FIR was lodged by the father of the victim. The victim is the daughter of the complainant. She is aged about 13 years. The applicant is aged about 21 years. In the night of 3rd September, 2019 at about 3.20 a.m. the complainant found that the victim was not in the room. He came out of the room.

The door was open. He saw the victim and the applicant sitting together. On noticing the complainant, the applicant/accused ran away from the place of incident. He inquired with the victim. She told the complainant and his wife that she knows the accused since last three months. On 4th September, 2019 at about 3.00 a.m. the accused had called on her cell phone and told her to come out of the room as he want to talk to her. The accused told her he likes her. He embraced her and touched her inappropriately. The investigation is completed and charge-sheet is filed.

3. The applicant had preferred application for bail before the Sessions Court which has been rejected on 2nd December, 2019. The application was primarily rejected on the ground that the victim was minor and that there is likelihood of applicant causing harm to her and may pressurized her.

4. Learned counsel for the applicant submitted that the applicant is in custody from the date of his arrest. There are no criminal antecedents against him. The alleged offences are punishable with punishment upto 5 years.

5. Learned APP submitted that the applicant is not permanent resident of Mumbai. He may not be available for trial, in the event bail is granted to him.

6. The applicant is in custody from 5th September, 2019. Charge-sheet is filed. The applicant and the victim were allegedly found in front of the house. They were sitting together at about 3.00 a.m. in night. Learned counsel for the applicant contended that, in the event bail is granted him, the applicant would reside at Nalasopara with his uncle. The uncle of the applicant Javed Khan is willing to file an affidavit stating that the applicant would reside with him after he is released on bail. Considering the factual aspects of the matter, bail can be granted on the certain terms and conditions.

ORDER

- i) Bail Application No. 292 of 2020 is allowed;
- ii) The applicant is directed to be released on bail in connection with C.R. No. 421 of 2019 registered with Dahisar Police Station, Mumbai on furnishing P.R. bond in the sum of Rs. 25,000/- with one or more local sureties in the like amount;
- iii) The applicant shall report concerned police station once in a month on every first Saturday between 11.00 am. to 01.00 pm.
- iv) The applicant shall tender the affidavit of his uncle Mr. Javed Khan while executing bail bond before Trial Court stating that the applicant would reside with him after he is released on bail.

- v) The applicant shall attend Trial Court regularly on the date of hearing of the case unless exempted by the Court.
- vi) The applicant shall not enter into the vicinity of place of residence of victim till conclusion of the trial.
- vii) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)