

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

CRIMINAL BAIL APPLICATION NO. 336 OF 2020

Sadanand Jagannath Veer

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Aniket Nikam i/b. Nihal M. Mansuri for Applicant.

Mr. R. M. Pethe, APP for State/Respondent.

CORAM :SARANG V. KOTWAL, J.

DATE :30th SEPTEMBER, 2020

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. 148 of 2019 registered with Jogeshwari Police Station, under sections 354, 506(II) of the Indian Penal Code, as well as, under Sections 8 and 12 of the Protection of Children from Sexual Offences Act (for short POCSO).

2. The FIR is lodged by father of the victim. The allegations are that the applicant was staying in the same building as that of the victim. On 04/09/2019 the first informant was told by the secretary of the society that when they were checking the

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CCTV footage dated 01/09/2019 they found that, at about 10.30p.m. the applicant had misbehaved with the informant's daughter who is 13 years of age. The incident was captured in the CCTV footage. It could be seen that the applicant was forcing himself on the victim and was forcibly kissing her. Thereafter the informant came back home and inquired with his daughter. She told that the incident was true and that the applicant had threatened her. On this basis the FIR was lodged. The applicant was arrested on 05/09/2019 and since then he is in custody.

3. Heard Shri. Aniket Nikam, learned counsel for the applicant and Shri. Pethe, learned APP for the State.

4. Shri. Nikam submitted that the act as per allegations committed by the applicant cannot be justified but he is in custody since more than one year. The maximum punishment under the POCSO sections which are applied here is three years and maximum sentence for the offence U/s.354 of the IPC is five years. He submitted that the applicant's family has also left the place and there was no possibility that there would be any further trouble to the victim. He harped on the fact that the applicant is in custody

since more than one year and there are no criminal antecedents. Learned APP opposed the applicant pointing out that the applicant had even tried to damage the CCTV footage. He submitted that the incident could not be justified.

5. I have considered these submissions. At this stage, there is no reason to doubt the occurrence of the incident. The statement of the victim also has sufficiently corroborated the allegations in the FIR. However, only fact worth taking into consideration is that the applicant is in custody since more than one year. This is the only incident alleged against him and there are no antecedents against him. The maximum punishment under POCSO sections which are applied is three years and for section 354 of IPC it is five years. Considering these facts, only for consideration of releasing the applicant on bail this application can be leniently considered. However, the applicant will have to face the trial and face sentence ultimately, if convicted by the trial court. Learned counsel for the applicant has stated that the applicant will not enter the locality of the victim and there shall be no further trouble to the victim. Considering this statement,

following order is passed.

ORDER

- (i) In connection with C.R.No. 148 of 2019 registered with Jogeshwari Police Station, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Looking at the prevailing circumstances, it may not be possible for the applicant to furnish sureties immediately. Therefore, initially the applicant is permitted to furnish cash bail for the same amount. The applicant will have to furnish the sureties, as directed, within three months from today.
- (iii) The applicant shall not enter the locality where the victim is residing and shall not in any manner cause any trouble to the victim.
- (iv) The applicant shall attend all the dates before the trial court.
- (v) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)