

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

BAIL APPLICATION NO.2155 OF 2019

Miss.Seemabi @ Saimabi D/o.

Yunus Khan Qureshi

.. Applicant

Vs.

State of Maharashtra

.. Respondent

**WITH
BAIL APPLICATION NO.3520 OF 2019
WITH
INTERIM APPLICATION NO.1 OF 2020**

Mohammad Nizamuddin Abdul Aziz

.. Applicant

Vs.

The Senior Police Inspector,

Pawar Wadi Police Station,

Malegaon, Nashik & Anr.

.. Respondents

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Mrs. Pranali P. Kakade, Advocate for the Applicant in B.A.2155 of 2019.

Mr.Ansar Tamboli, Advocate for the Applicant in B.A.3520 of 2019.

Mr.M.G. Patil, APP for the Respondent - State.

Mr.Sajid A. Qureshi, Advocate for the Intervenor.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 14, 2020.

P.C. :

Applicants in both these applications are seeking bail in connection with C.R.No.I-56 of 2019, registered with Pawar Wadi Police Station, Malegaon, Nashik, for the offences

punishable under Sections 376 and 376(D) of Indian Penal Code (“IPC”, for short) and under Sections 4 and 8 of The Protection of Children from Sexual Offences (“POCSO Act”, for short) as well as Section 67 and 67(a) of Information Technology Act.

2 First Information Report (“FIR”, for short), was lodged on 15th May, 2019 by the victim aged about 17 years. According to the victim/complainant, she had accompanied Seemabi under the pretext of attending recital to holy Kuran. However, she was taken to another place. Thereafter, the co-accused Majid came with motorcycle and all of them visited the house of another accused which was under construction. It is alleged that the co-accused Shaikh Sayed alias Wireman had allegedly subjected her to sexual assault. The victim did not lodge the complaint, however, on the next day, it was noticed that the persons residing in the area were protesting about the conduct of the victim and her family. She realized that the accused has circulated her objectionable videos and caused harm to her reputation.

3 These applicants were arrested on 15th May, 2019. Since then they are in custody. Investigation is complete and charge-sheet is filed.

4 Learned counsel for the applicant submits that there is delay in lodging the FIR. Medical evidence does not support the version of the complainant. There are no injuries on the person of victim. The transcript found in the mobile along with video recording is the conversation of the accused, and, no role of sexual assault has been attributed to the applicants. The only role attributed to the applicant in Bail Application No.2155 of 2019, that she took victim to place of incident. Applicant in Bail Application No.3520 of 2019, was allegedly present at the place where the victim was subjected to sexual assault.

5 Learned APP submitted that all the accused had acted in connivance with each other. Accused had aided and abetted each other. In the memorandum statement, the applicant in Applicant in Bail Application No.3520 of 2019, have stated that he had received the video recording from the co-accused and the same was forwarded by him to his brother-in-law. The prosecution case is that the accused were instrumental in circulating the objectionable video.

6 The victim has lodged complaint after realizing that objectionable video is circulated. The investigation refers to one

video of 28 seconds with regards to alleged objectionable act. The applicant Seemabi has been attributing overact of taking the victim. Apparently, she had accompanied victim and co-accused. The accused who had subjected this victim to sexual assault had arrived subsequently. Applicant in Applicant in Bail Application No.3520 of 2019, was allegedly present at the scene of offence. The role of recording of video has been attributed to the applicant Mohammad Nizamuddin Abdul Aziz. Considering the factual aspects, role of applicant and completion of investigation, bail can be granted to applicant on certain conditions.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application Nos.2155 of 2019 and 3520 of 2019, are allowed;
- (ii) The applicants are directed to be released on bail in connection with C.R.No.I-56 of 2019, registered with Pawar Wadi Police Station, Malegaon, Nashik, on their furnishing P.R.Bond in the sum of Rs.25,000/-, each, with one or more sureties in the like amount;

- (iii) Applicants in Bail Application No.3520 of 2019, shall report to concerned police station once in a month on first Saturday of the month between 11:00 a.m. to 01:00 p.m., till further orders;
- (iv) Applicant in Bail Application No.3520 of 2019, shall stay out of the jurisdiction of Alibaug Police Station, District-Raigad, till further orders;
- (v) Applicants shall not approach the complainant and her relatives;
- (vi) Bail Applications stand disposed of;
- (vii) Interim Application No.1 of 2020, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)