

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

CRIMINAL BAIL APPLICATION NO. 2180 OF 2019

Ravindra Ramakant Sharma ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Amit Mane, Advocate for the Applicant.
Mrs. Sharmila Kaushik, APP for Respondent-State.
Mr. Lotankar Pravin, A.S.I., Srinagar Police Station.

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CORAM : SANDEEP. K. SHINDE, J.

DATE : 05th FEBRUARY, 2020.

P.C.

Heard.

1. It is an application under Section 439 of Code of Criminal Procedure, 1973 ("Cr.P.C." for short).
2. Applicant is seeking enlargement on bail in Crime No. I - 13 of 2019 registered with Srinagar Police Station for the alleged offences punishable under Section 377 of the Indian Penal Code, 1860 ("IPC"

for short) and Sections 4, 8 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO" for short).

3. Victim was 12 years old when the alleged incident had taken place. Victim's statement under Section 24 of POCSO has been recorded. Additionally, his statement under Section 164 of Cr.P.C. also has been recorded. Complainant is a mother of the victim, who found her son and the applicant in naked condition in the house of the applicant. She alleged that the applicant subjected her son to intercourse against the order of nature. Victim in his statement under Section 164 of Cr.P.C. reiterated these facts. The learned counsel for the applicant refuted the allegation and submitted that the medical evidence does not corroborate the narration of the victim and the applicant has been falsely implicated over a dispute in respect of the residential house. Additionally, it has been submitted that applicant is in custody since January, 2019 and investigation is over and trial may

not commence in the near future and therefore he may be released on the bail. He has also relied on a judgment of Orissa High Court in the case of **Mihir alias Bhikari Charan Sahu Vs. State.**

4. I have perused the final report. Prima facie, the contention, of the applicant that he has been falsely implicated is difficult to accept, in view of the statement of Gangadhar Yadav in whose house, the applicant was living. Though the medical evidence is not corroborating the narration of the victim however, it may be noted that the victim has reiterated the facts in the statement recorded under Section 24 of POCSO as well as in the statement recorded under Section 164 of Cr.P.C.

5. Prima facie, it appears that the Victim was found in the house of the applicant in the nude condition, whereupon locals held and assaulted him. Having regard to the nature of accusation and the evidence available on record, in my view, it is not a fit case to release the applicant on the bail. That

even otherwise, the offence under Section 4 and 8 of POCSO is punishable with a imprisonment for a term not less than 7 years; So also the offence under Section 377 of IPC is punishable with a imprisonment for life or imprisonment for other discription which may extend to 10 years. The judgment relied upon by the applicant, was delivered in the Criminal Revision after the conclusion of the trial.

6. In view of the facts of the case, the application is rejected. However, the Sessions trial case Special POCSO No. 121/2019 is expedited.

7. The application is disposed of.

8. It is made clear that observations made hereinabove shall be construed as an expression of opinion only for the purpose of refusal of bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP. K. SHINDE, J.)_