

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2618 OF 2019

Anil Bhola Yadav

...Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Rohan H. Barge, Advocate for the applicant.

Ms. J.S. Lohakare, APP for Respondent-State.

CORAM : SANDEEP K. SHINDE, J.

Thursday, 23rd January, 2020.

P.C. :

Heard.

1. It is an application under Section 439 of Code of Criminal Procedure, 1973.

2. Applicant is seeking enlargement on bail in Crime No.199 of 2018 registered with Nizampura Police Station for the alleged offences punishable under Sections 363 of the Indian Penal Code, 1860 ("IPC" for short) and Section 6 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO" for short).

3. I have perused the final report. Victim is five years old had been allegedly subjected to

aggravated penetrative sexual assault within the meaning of Section 5 (n) of the POCSO by the applicant. Victim's statement under Section 24 of POCSO has been recorded. Medical evidence and the statement of independent witnesses under Section 161 and 164 of Cr.P.C. corroborates narration of the victim. Section 29 of POCSO provides that where a person prosecuted for violating any of the provisions under Sections 3, 5, 7 and 9 of the act and where the victim is a child below the age of 16 years, it shall be presumed that such person has committed the offence as the case may be unless the contrary is proved. Section 30 of POCSO presumes the existence of the culpable mental state which includes intention, motivate, knowledge of the fact.

4. Learned APP submitted that the charge has been framed in Sessions Case 354 / 2018. In view of the nature of accusation and the evidence on record, the application is rejected.

(SANDEEP K. SHINDE, J.)