

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2761 OF 2019

Aniket Anant Kamble

....Applicant

v/s.

The State of Maharashtra

....Respondent

Ms. Anjali Patil, Advocate for the applicant.

Mr. S.R Agarkar, APP for the State.

PSI, Mr. Pawar, Bhoiwada Police Station present.

CORAM : SANDEEP K. SHINDE, J.***Monday, 20th January, 2020.*****P.C. :**

1. Heard. Victim is a child below the age of 18 years. It is alleged the applicant, subjected her to sexual assault within the meaning of Section 7 of the Protection of Children from Sexual Offences Act, 2012 (for short "the POCSO Act") for which punishment prescribed is imprisonment for not less than 3 years but which may extend to 5 years. The applicant is the

paternal uncle of the victim who is 32 years old. The statement of victim in terms of Section 24 of the POCSO Act has been recorded followed by medical examination.

2. Section 29 of the POCSO Act provides that, where a person is prosecuted for violating any of the provisions under Section 357 and 9 of the Act, where the victim is a child, the Court shall presume that such person has committed the offence unless the contrary is proved. Section 30 of the POCSO Act presumes culpable mental state on the part of the accused which includes intention, motive, knowledge of a fact and the belief or a reason to believe a fact. Though the medical evidence does not corroborate the accusations, prima-facie, I have no reason to disbelieve the statement of victim within the purview of Sections 29 and 30 of the POCSO Act. The Bail Application is hereby rejected.

3. Counsel for the applicant submits that the applicant has been in jail since January, 2019 and the offence under Section 7 is punishable with

imprisonment for three years.

4. In view of the fact aforesaid, the applicant is granted liberty to apply for his enlargement on bail, in case trial is not concluded within six months from today. The Bail Application is disposed off in the aforesaid terms.

(SANDEEP K. SHINDE, J.)