

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3042 OF 2019**

Sudam Tukaram Pharande
Age : 52 Yrs. Occ : Agriculturist
R/at. Hanuman Vasti, Bidal,
Tal. Man, Dist. Satara,
(At present in Kolhapur Central Prison,
Kalamba) ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Harshad Sathe i/b Mr. G. S. Jadhav, Advocate for the Applicant.
Ms. Veera Shinde, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 18th DECEMBER, 2020.

PER COURT:

1. The applicant is seeking bail in connection with C.R. No.I-282 of 2018 registered with Dahiwadi Police Station, Dist. Satara for offences punishable under Sections 354 (A)(2)(3), 352, 506, 341 of Indian Penal Code (for short “IPC”) and Sections 7, 8, 9(n) & 10 of Protection of Children from Sexual Offences Act, 2012 (for short ‘POCSO Act’).

2. The complaint was lodged by the mother of victim on 28th November, 2018. The accused is the husband of complainant and father of victim. The victim is aged about 17 years. It is alleged

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that, on 13th March, 2018, the accused dragged the victim out of the house. He touched her chest inappropriately. The complainant and her son were present in house on 23rd November, 2018, the applicant gave abuses and attempted to sexually harass the victim. Complaint was filed on 28th November, 2018. He threatened them with Axe. The applicant was arrested on 28th November, 2018. On completing investigation, charge-sheet is filed.

3. Learned advocate for the applicant contended that, complaint is false. There is dispute between applicant and his wife, who has lodged false complaint. There is substantial delay in lodging First Information Report. The allegations, even if accepted to be true would amount to outraging modesty. The applicant is in custody for a period of about Two years.

4. Per contra learned APP submitted that, specific overt act has been attributed to the applicant. The complainant and the victim supports the prosecution case. The accused is father of victim. He outraged her modesty by pressing her chest and made attempt to sexually assault her. The victim was minor at the time of incident. The offence is of serious nature.

5. On going through the documents, it is apparent that, the alleged first incident had occurred in March, 2018 and the FIR was

lodged after the period of about Eight months. The complaint is lodged by wife of applicant. The victim is taking education at Satara. According to complainant on 13th March, 2018 at 10.30 p.m. the applicant dragged victim out of house. Victim told complainant that applicant touched her chest and tried to harass her. The applicant threatened them by wielding axe. The victim was then staying with her maternal uncle for education. The applicant was insisting that victim should be brought to house. There were quarrels between complainant and applicant. On 23rd November, 2018, victim had visited for fair in village. The applicant abused her. No complaint was lodged after incident dated 13th March, 2018. complaint was lodged on 28th November, 2018, after alleged incident dated 23rd November, 2018. From the statement of complainant it appears that relation between complainant and applicant were not cordial. The FIR is lodged 8 months after first incident. Statement of victim was recorded on 29th November, 2018. Her supplementary statement was recorded on 19th January, 2019 wherein she stated that two months prior to 13th March, 2018, while victim was taken to doctor by applicant and her mother, the applicant had pushed her by hand. Section 354 (A)(2)(3) has been invoked against applicant along with Sections 7, 8, 9(n) & 10 of POCSO Act. The punishment provided for the aforesaid offences is punishable at the most with imprisonment

of Seven years. The applicant is in custody for a period of about Two years. Learned counsel for the applicant submitted that the victim is married and staying separately. Considering the aforesaid circumstances, case for grant of bail is made out on certain terms and conditions. Hence, I pass the following order:

ORDER

- (i) Bail Application No.3042 of 2019 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No.I-282 of 2018 registered with Dahiwadi Police Station, Dist. Satara, on executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) The applicant shall report concerned Police Station once in a month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- (iv) Applicant shall not approach the victim and shall not tamper with the evidence in any manner;
- (v) Application stands disposed of accordingly.

6. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)