

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3377 OF 2019

Dnyaneshwar Sampat AdhaneApplicant
V/s.
The State of MaharashtraRespondent

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Mr.Nitesh J. Mohite, Advocate for the
applicant.

Mr. Yogesh Dabke, APP for State.

PSI, Mr. T.B. Kapde, Badalapur Police Station
present.

CORAM : SANDEEP K. SHINDE, J.
(through Video Conference)

Wednesday, 30th September, 2020.

P.C . . :

1. Heard learned Counsel for the
appellant and learned APP for State.

2. 42 years step-father is facing
accusation of causing "aggravated sexual
assault" on his 17 year old daughter.
Offence registered is under Section 354-A

of Indian Penal Code and under Sections 9(1), 11 and 12 of the Protection of Children from Sexual Offences Act ("POCSO" for short). Section 9 defines, "aggravated sexual assault" and Clause (1), contemplates sexual assault on the child, more than once or repeatedly, is "aggravated sexual assault". Punishment for "aggravated sexual assault" shall not be less than 5 years but which may extend to 7 years. Applicant was apprehended soonafter the complaint and since March, 2019, he is in custody. Chargesheet has been filed. I have perused it. Applicant is blind since birth. Victim at the relevant time was 17 years old. Complaint was lodged on 30.3.2019. It is alleged, the applicant videographed the obscene pictures of complainant-victim in his mobile. I have perused the seizure panchanama of video clip and victim's

statement. It appears, the Investigating Officer has seen the alleged video wherefrom it appears, the applicant attempted to make a physical contact and advances involving unwelcome and explicit overtures. The panchanama therefore, *prima-facie*, does not suggest that the applicant attempted to touch the vagina of the victim as alleged. Be that as it may, it is submitted by the learned APP that, the victim married to Devendra in April, 2020 and since then, living with her husband. Chargesheet also contains Section 164 statement of the victim recorded soonafter the incident. In the said statement, she declined to narrate the incident. Statement of victim's mother suggest, the complaint has been filed by victim at the instance of Devendra. Thus, considering the facts and circumstances of the case, I am inclined

to release the applicant on bail. It must also be stated that, as much as, the special laws such as POCSO prescribe stringent provisions for grant of bail, where concept of consent is irrelevant, yet in such case, as in hand, it is essential to point out that this Court is empowered to pass such orders which are necessary to secure ends of justice while question of the accused-applicants' guilt is to be considered on its merits at trial. Presently at the stage of bail, this Court can consider, *prima-facie*, the circumstances under which the offence is committed by the accused. Even otherwise, applicant is in custody since year and a half. The application is therefore allowed on the following terms and conditions :

ORDER

(i) The applicant arrested in Crime No.I-53/2019 registered with Badlapur Police Station, shall be released on bail on executing PR bond for the sum of Rs.20,000/- (Rs. Twenty Thousand only) with one or more sureties in the like sum.

(ii) In view of the outbreak of Covid-19 pandemic, applicant is permitted to furnish cash bail and the same shall remain in force for a period of three months.

(iii) It is made clear that, before expiry of three months, applicant shall furnish sureties as directed hereinabove.

(iv) The applicant shall report

to the Investigating Officer as and when called.

(v) The applicant shall furnish particulars of his permanent residential address and contact details to the Investigating Officer within seven days from his release from jail.

(vi) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

7. The application is accordingly allowed and disposed of.

8. It is made clear that observations made hereinabove be

construed as expression of opinion only
for the purpose of granting bail and the
same shall not in any way influence the
trial in other proceedings.

Neeta
S.
Sawant

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signed by
Neeta S.
Sawant
Date:
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(SANDEEP K. SHINDE, J.)