

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

CRIMINAL BAIL APPLICATION NO. 3641 OF 2019

Akaram Popat Kharat

...Applicant

Vs.

State of Maharashtra

...Respondent

Mr. Datta Mane, Advocate for Applicant.

Mr. Arfan Sait, APP for the Respondent / State.

Mr. Abhiman S. Patil, for Respondent No.2

CORAM : C.V. BHADANG, J.

DATE : 5th October, 2020

(Through Video Conferencing)

P.C.

1. This is an application for bail. The applicant is facing prosecution for the offence punishable under Sections 376(3), 354(A)(1), 506 of Indian Penal Code and Section 3(a), 4,7 and 8 of the Protection of Children From Sexual Offence Act, 2012 ('POCSO' for short) for having forcible sexual intercourse with the victim on 23rd September 2018. At the relevant time the victim was a girl aged about 14 years and 11 months.

2. In this case the investigation is complete and charge-sheet is filed.

3. The learned Sessions Judge by an Order dated 9th November 2019, has refused to release the applicant on bail.

4. I have heard the learned counsel for the applicant, the learned Additional Public Prosecutor as also the learned counsel for 2nd respondent who is original complainant. The 2nd Respondent is the father of the victim.

5. It appears that the second Respondent has now filed an affidavit on 18th September 2020 stating that now the parties are willing to jointly file a Petition for quashing of the complaint/prosecution and that he has no objection for release of the applicant on bail.

6. On hearing the learned Counsel for parties it prima facie appears that the victim was about 14 years and 11 months at the time of the incident. The medical report does not show in clear terms that the victim was subjected to any forcible sexual intercourse.

7. All that the report says is that possibility of sexual violence cannot be ruled out.

8. Prima facie it appears that although the incident is said to be of 23rd September 2018, the complaint is lodged after substantial delay on 1st September 2019.

9. Considering over all circumstances, following order is passed:-

ORDER

1. The applicant be released on bail on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
2. The applicant shall undertake to remain present on the dates of hearing before the Special POCSO Court.
3. The applicant shall not directly or indirectly to make any attempt to contact/ influence the complainant or victim or otherwise tamper with the prosecution evidence/witnesses.
4. The Bail Bonds to be furnished before the learned Special POCSO Court.
5. The Criminal Application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.