

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.512 OF 2020

Nagesh Dharmarao Katta

Applicant

versus

The State of Maharashtra

Respondent

Mr.Mateen Abdul R. Shaikh for applicant.

Mr.Y.M.Nakhwa, APP, for State.

PSI Amitkumar Bagul, Vile Parle Police Station.

CORAM : PRAKASH D. NAIK, J.

DATE : 17th February 2021

PC :

1. This is an application for bail in CR No.305 of 2019 registered with Vile Parle Police Station for offences under Sections 4,8,10 and 12 of Protection of Children from Sexual Offences Act, 2012 and under Sections 354, 376, 509 of IPC. Learned APP submitted that intimation about hearing of this case is given to the complainant (victim's mother).

2. The victim is girl aged about seven years. It is alleged that she had visited her teacher for tuition. Her teacher was not at home. The accused told her to sit. He sat next to her and put his hand in the undergarment of the victim and squeezed her private part. She informed about the said incident to her mother and the FIR was lodged on 6th August 2019.

3. The contention of applicant is that the applicant is in custody since last 19 months. Assuming the allegations to be true, there is no penetrative sexual assault and the case would not fall under Sections

4 and 6 of POCSO Act. It would also not fall under Section 376 of IPC. He relied upon medical certificate and version of complainant and victim.

4. Learned APP submitted that the offence is of serious nature. The victim was aged about 7 years. This is not the stage to determine as to what offence is committed. He pointed out papers relating to medical examination of the victim which mentions that history was provided by the victim that on 5th August 2019 she went for tuition where accused was present. He took the victim close and started moving his hand over her thigh and also put his hand in undergarments and committed the alleged act.

5. Considering the version of victim, her age and the medical case papers relating to examination of victim, no case for grant of bail is made out. Hence, I pass following order :

ORDER

(i) Bail Application is rejected;

(ii) Trial is expedited. In the event trial is not concluded within one year the applicant would be at liberty to prefer application for bail.

6. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)