

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

BAIL APPLICATION NO.730 OF 2021

BHALCHANDRA
GOPAL
DUSANE

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Date: 2021.10.29
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Shivshankar Ramnath Gupta Applicant

Vs.

The State of Maharashtra Respondent

Mr. Sandesh B. Manikhedkar i/by Dipika Gupta for Applicant.
Ms. A.A. Takalkar, APP for State.
API, R.B. Momin, Vashi Police Station, Navi Mumbai

**Coram : NITIN W. SAMBRE, J.
Date : 28TH OCTOBER, 2021**

P.C.:

1. After arrest on 6th July, 2020, the applicant came to be charge-sheeted for the offence punishable under Sections 363, 354(A), 341 of Indian Penal Code and Sections 8 and 12 of POCSO Act, 2012.

2. The prosecution case against the applicant is, so as to make victim's visit his house, applicant lured her by handing over his mobile and make her return the same at his place in late evening. The victim as

such went in the night at the place of applicant, where she was subjected to sexual assault. As such the offence in question.

3. As far as offence punishable under Sections 363, 353 and 341 of Indian Penal Code are concerned, the applicant has stated to be next door neighbour of the complainant. The girl in her statement stated that because of fear of her mother she did not return at late night hours to her parental home, and stayed to the house of applicant. Before this event, she roamed around in auto-rickshaw of a person of acquaintance upto 11.00 pm.

4. Apart from above, statement recorded under Section 161 Cr.P.C. and Section 164 Cr.P.C. is at great variance. The medical evidence also does not justify the case of the prosecution of sexual assault. The offence punishable under Sections 8 and 12 of POCSO Act Provides for punishment of five years. As such, in my opinion, a case for grant of bail is made out. The application is allowed on following conditions :

ORDER

- (i) The applicant be released on bail in Crime No. 244 of 2020, registered at Vashi Police Station, for the offence punishable under Sections 363, 354(A), 341 of Indian Penal Code and Sections 8 and 12 of POCSO Act, 2012, on furnishing P.R. bond in the sum of 15,000/- with one or more sureties in the like amount.
- (ii) The applicant shall neither influence the prosecution witnesses in any manner nor tamper with the evidence.
- (iii) The applicant shall furnish address of his permanent residence and also furnish his latest contact details to the I.O.
- (iv) The applicant shall remain outside jurisdiction of the concerned Police Station till conclusion of the trial.

(NITIN W. SAMBRE, J.)