

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

BAIL APPLICATION NO.1374 OF 2020

Hemant @ Himmat Kharol

.. Applicant

Versus

State of Maharashtra

.. Respondent

.....
Ms.Trupti R. Shetty, Advocate for the Applicant.

Ms.Anamika Malhotra, APP for the Respondent – State.

API B. Patil, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : MARCH 22, 2021.

P.C. :

This is an application for bail in connection with C.R.No.261 of 2020, registered with Versova Police Station, Mumbai, for the offences punishable under Sections 354 and 354(a) of Indian Penal Code (“IPC”, for short) and Section 8 of Protection of Children from Sexual Offences Act (“POCSO Act”, for short).

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2 The complaint was lodged by mother of the victim on 6th July, 2020. It is alleged that the complainant was informed by her neighbour that her daughter is being harassed by the

applicant and that she has been threatened send her nude videos. The complainant then made inquiry with her daughter. She disclosed that the accused used to touch her inappropriately on her shoulder, waist and back. She objected for the same. In April-May, the accused threatened her that she should record her video and sent it to him. He used to threaten her. Hence, due to fear she recorded the video in the mobile phone of her mother and sent it on the mobile phone of the applicant accused. The victim also told the complainant that she had deleted the videos. In pursuant to the registration of FIR, statement of victim was recorded on 7th July, 2020. The victim also states that the applicant accused used to threaten her to send her new video on the *WhatsApp*. She also stated that the accused used to touch her inappropriately in the month of March and April and due to fear she has sent video to the applicant.

3 FIR was registered on 6th July, 2020. Learned counsel for the applicant submits that there is delay in lodging the FIR. The cell phone of the applicant was seized during investigation. No such objectionable video is found in the cell phone. Assuming the case to be true, the allegation would be covered by Section 8 of the POCSO Act which is punishable upto five years

imprisonment. The applicant is in custody from 8th July, 2020. There are no criminal antecedents against the applicant. The applicant is aged about 21 years.

4 Learned APP submitted that the statement of the victim cannot be disbelieved at this stage. There are no reason to falsely implicate him. The victim is aged about 14 years. Applicant had threatened her. Under the threat, the victim had forwarded videos to the applicant.

5 I have perused the documents on record. The incident of outraging modesty had occurred somewhere in April or May 2020. The information about the harassment to the victim was given by the neighbour, and, thereafter, the mother of the victim had made inquiry with the victim. Apparently, victim had not made any complaint with mother. The cell phone of the applicant has been seized. It is contended that no video was found in his cell phone. The victim has stated that she had sent one video to applicant accused. From the panchanama of cell phone of the complainant (mother of victim) which was purportedly used by victim it refers to saving eight video files. It is not mentioned as to whom the video was sent by the victim. It is not clear as to who

had clicked the said new videos and why the same was saved in the cell phone of the complainant. The complainant has stated that the victim had told her that the accused used to touch her shoulder, back and waist. Considering the factual aspects of the matter, and, also considering that the applicant is in custody from 8th July, 2020, and the punishment provided for the offence, bail can be granted to the applicant.

6 Hence, I pass the following order:

:: O R D E R ::

- (i) Bail Application No.1374 of 2020, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.261 of 2020, registered with Versova Police Station, Mumbai, on executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall stay out of the jurisdiction of Varsova Police Station, Mumbai, till the conclusion of trial;
- (iv) Applicant is permitted to give details of his place of

residence and mobile contact number to the investigating officer;

- (v) Applicant shall attend the trial Court regularly on the date of hearing, unless exempted;
- (vi) Applicant shall furnish provisional cash bail in the sum of Rs.25,000/-, for a period of eight weeks from today, in lieu of suety;
- (vi) Bail Application No.1374 of 2020, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)