

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

BAIL APPLICATION NO.1442 OF 2019

Mayappa Sitaram Zitte

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Mr. Ghansham Jadhav i/b. Mr. B.A. Aloor for the Applicant.

Mrs. G.P. Mulekar, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 17th JULY, 2021.

P.C.:-

This is an application under Section 439 of Criminal Procedure Code, 1973 filed by the aforesaid Applicant for release on bail.

2. The Applicant is facing trial in Special Case No.534 of 2018 pending on the file of learned Special Judge and Additional Sessions Judge, Pune. Said case arises from C.R. No.407 of 2018 registered with Bhosari Police Station pursuant to the FIR lodged by the mother of the first informant for offences punishable under Sections 366A, 376 of the IPC and Sections 3(a), 4 and 5(l) (n) of The Protection of Children from Sexual Offences Act, 2012 (POCSO). The case of the prosecution is that

the Applicant, who is the husband of the paternal aunt of the victim, had induced the victim to go to different places and that he had subjected her to penetrative sexual assault.

3. The material on record prima face indicates that the victim is below 14 years of age. The statement of the victim prima faice indicates that since about one year the Applicant had been taking her to Sitangan garden, Sarita garden, Raunak lodge at Bhosari and lastly on 30/08/2018 he took her at his room at Wagholi and had sexual intercourse with her by promising to marry her. The Medical evidence prima facie supports the case of the prosecutrix. There is thus prima facie material to indicate that the Applicant, who is a relative of the prosecutrix has committed penetrative sexual assault on her repeatedly and had thus committed offence under Section 5(l) (and (n) of POCSO Act, which is punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life. The offence is of serious nature. The trial has not yet commenced. Considering the relationship between the parties, possibility of the Applicant threatening or influencing the victim and her family members cannot be ruled out. Hence, this is not a fit case for grant of bail.

4. The application is dismissed.

5. Considering the fact that the case is of the year 2019, the learned Judge is directed to conclude the trial as expeditiously as possible and in any event to endeavour to record the evidence of the victim within a period of three months from the date of receipt of copy of this order.

(SMT. ANUJA PRABHUDESSAI, J.)