

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

BAIL APPLICATION NO. 3068 OF 2019

Rohit @ Rohidas Pandhari Kamble ... Applicant

Versus

The State of Maharashtra & Anr. ... Respondents

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Mr. Nitin Sejpal, Advocate for the Applicant.

Ms. Gayatri Gokhale, Advocate for Respondent No.2.

Mr. S. R. Agarkar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 7th JULY, 2021.

PER COURT:

1. The applicant is seeking bail in C.R. No. I-91 of 2019 registered with Kharghar Police Station, Navi Mumbai for offences under Sections 354, 376 of Indian Penal Code (for short “IPC”) and Sections 4, 6, 8, 10, 12 of the Protection of Children from Sexual Offences Act, 2012 (for short ‘POCSO Act’).

2. The First Information Report (for short ‘FIR’) was lodged by the mother of the victim girl. The victim girl is aged about 6 years and 4 months. She attends school by Van. On 1st August, 2018, the victim informed complainant that the person from school van had fingered her private part. The information was provided to school

teach. FIR was lodged against Ashok Kamble. Supplementary statement of the complainant was recorded on 18th March, 2019 in which it was stated that the victim girl has informed her that even the applicant had subjected her to sexual assault by fingering her private part. Statement of the victim girl was recorded on 20th May 2019. She has stated that applicant and co-accused Ashok had subjected her to sexual assault as stated above.

3. The contention of learned counsel for the applicant is that the possibility of false implication of the applicant cannot be ruled out. In the complaint which is based on the version of the victim, the applicant has not been named and no role has been assigned to him. After the arrest of the co-accused, the applicant was arrested on 18th March, 2019, and thereafter, on the same day supplementary statement of the complainant was recorded in which the applicant is being involved. The statement of the victim was also recorded thereafter. If the victim had disclosed the involvement of the co-accused then the question arises as to why applicants' involvement was not disclosed. The applicant is in custody since two and half years. There is no progress in the trial.

4. Learned APP and learned advocate appointed to represent the complainant submitted that the version of the victim and complainant cannot be discarded at this stage. The victim has

attributed role of sexual assault to the applicant. Assuming that there is discrepancy as stated above, the case of the victim cannot be disbelieved. She is aged about six years four months. The medical evidence supports the prosecution case.

5. I have perused the statements of the victim and the complainant. The complainant in her supplementary statement had stated that the victim was in disturbed state of mind she spoke to her and she disclosed the involvement of both accused. It is pertinent to note that the victim is a girl aged about 6 years, 4 months. There is nothing on record to indicate that there was any motive for the victim and her mother to falsely implicate the applicant in the offence. At this stage it is difficult to disbelieve the version of the victim. However, considering the fact the applicant is in custody since two and half years, trial can be expedited.

ORDER

- i) Bail Application No.3068 of 2019 is rejected.
- ii) Trial is expedited.
- iii) The Trial Court shall make an endeavor to conclude the trial within nine months from today.
- iv) Bail Application is disposed of accordingly.

(PRAKASH D. NAIK, J.)