

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3555 OF 2019

Kamil Farooque Pradhan Applicant

V/s.

State of Maharashtra Respondent

* * * *

Mr. Dheeraj Panchange, Advocate for the applicant.

Mr. R.M. Pethe, APP for State.

PSI, Sachin Shinde from Ulhasnagar Police Station
present.

Complainant, Nikita Nitin Jadhav present.

CORAM : SANDEEP K. SHINDE, J.

Friday, 29.1.2021.

P.C. :

1. The applicant is seeking enlargement on bail in connection with Crime No.I-334/2019 registered with Ulhasnagar Police Station, for the offences punishable under Sections 354, 354A, 376(AB), 506 of the Indian Penal Code and

Sections 4, 8, 10, 12 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act" for short).

2. Victim being a minor, a notice was issued in terms of the provisions of second proviso to Section 439 of the Criminal Procedure Code to the mother of the victim. She is present in the Court. Investigating Officer is also present.

3. Heard learned Counsel for the applicant and Mr. Pethe, learned APP for State.

4. At the outset, it may be stated that statement of the applicant recorded at Karjat Police Station, which is at page-67 of the paper-book; complaint by father of the applicant dated 16th January, 2018 at page-69; and a complaint dated 9th October, 2018 addressed to Karjat Police Station by the

applicant coupled with the notice dated 4th September, 2018 issued to the applicant under Section 107 of the Criminal Procedure Code, prima-facie suggest that the applicant and the mother of the victim were in live-in relationship but departed their ways for reasons known to them. Prima-facie, therefore the complaint filed by victim's mother is actuated with malice and hatred.

5. Be that as it may, it is understood from the complaint that the applicant and the mother of the victim were in live-in relationship and victim, as it appears, is the daughter of the complainant born from the first marriage. It is noticed, before the registration of subject crime, both complainant and accused have filed complaints against each other. It seems, recurring quarrels and complaints, prompted the State to initiate Chapter proceedings against the applicant.

6. When enquired with the victim, it is submitted by her, through the learned Prosecutor, that let the applicant be released on bail subject to condition that, henceforth, he shall not keep any contact or try to establish contact with her and further shall not enter in the territorial units of the Village-Savele, Tal-Karjat, District-Raigad.

7. The learned Counsel for the applicant, on instructions, undertakes that the applicant shall not contact or try to establish contact with the mother of the victim and shall not enter in the Village-Savele, where the victim and her mother are living. Statement is accepted as Undertaking to this Court.

8. In consideration of the facts aforesaid and for the reasons stated, the application is allowed.

9. The applicant arrested in C.R. No.I-334/2019 registered with Ulhasnagar Police Station, shall be released on bail on executing P.R. Bond in the sum of Rs.20,000/- (Rs. Twenty Thousand only) with one or two sureties in the like sum.

10. The applicant shall report to the Investigating Officer as and when called.

11. The applicant shall furnish particulars of his permanent residential address and contact details to the Investigating Officer within seven days of his release from jail.

12. The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

13. The applicant shall not contact or try to establish contact with the mother of the victim and shall not enter in the Village-Savele, where the victim and her mother are living.

14. The application is accordingly allowed and disposed of.

15. It is made clear that observations made hereinabove be construed as expression of opinion only for the purpose of granting bail and the same shall not in any way influence the trial in other proceedings.

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Sawant

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(SANDEEP K. SHINDE, J.)