

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

BAIL APPLICATION NO.3562 OF 2019

Kiran Balbhim Gawade

.. Applicant

Versus

State of Maharashtra and Anr.

.. Respondents

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Mr.Satyavrat Joshi i/b. Mr.Sachin T. Zalte, Advocate for the Applicant.

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

Mr.Yunus Shaith, Sr.P.I., Yerwada Police Station, Pune, present.

Mohini Dongre, PSI, Yerwada Police Station, Pune, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : AUGUST 24, 2021.

P.C. :

This is an application for bail in connection with C.R.No.362 of 2018, registered with Yerwada Police Station, Pune, for the offences punishable under Sections 363, 354, 354(A), 342 read with 34 of Indian Penal Code (“IPC”, for short) and Sections 7 and 8 of the Protection of Children from Sexual Offences Act (“POCSO Act”, for short).

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2 The complaint was lodged by the maternal uncle of the victim. It is alleged that on 3rd June, 2018, the victim girl aged about 12 years had visited the vendor for purchasing Bhel. The person was sitting in the car had pulled the victim in the car and molested her. FIR was lodged on 5th June, 2018. The applicant was arrested on 11th November, 2019. On completing investigation, charge-sheet was filed.

3 Learned counsel for the applicant submitted that the applicant has been falsely implicated in this case. Although the incident had occurred on 3rd June, 2018, he was arrested on 11th November, 2019. There is no Test Identification Parade to identify the applicant. He is in custody for period of two years. There are no criminal antecedents against him. Applicant was granted temporary bail on the ground of pandemic of Covid-19. On expiry of the temporary bail, he had surrendered to custody. It is not reported that he had misused the facility of temporary bail.

4 Learned APP submitted that pursuant to the directions of this Court, the Senior Inspector of Police attached to Yerwada Police Station as well as the investigating officer is present in Court. The statement of the complainant dated 23rd August, 2021 has been submitted to the Court. The tenor of the

statement indicate that the intimation about the application pending before this Court had been given to the complainant. The statement also indicate that the bail application of the applicant be rejected. Learned APP further submitted that the applicant was identified on the basis of the photographs of the applicant being shown to the victim. Statement of complainant is taken on record.

5 There is serious discrepancy about the identity of the applicant. The FIR was lodged against unknown person. The applicant was arrested after the period of about more than one year from the date of incident. He is in custody for substantial period. Considering the aforesaid factual aspects, bail can be granted to the applicant.

:: ORDER ::

- (i) Bail Application No. 3562 of 2019, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.362 of 2018, registered with Yerwada Police Station, Pune, on executing P.R. Bond in the sum of Rs.25,000/-, with one or more local sureties in the like amount;

- (iii) Applicant is permitted to furnish provisional cash bail in the sum of Rs.25,000/-, for a period of 10 weeks, in lieu of surety;
- (iv) Applicant shall not tamper with the prosecution evidence and he shall not approach the complainant or the victim;
- (v) Applicant shall report the concerned police station, once in three months on first Saturday of the month between 11:00 a.m. to 01:00 p.m., till further orders;
- (vi) Bail Application No.3562 of 2019, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)