

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

CRIMINAL BAIL APPLICATION NO.3613 OF 2019

Firoz Hasimuddin Shaikh Applicant
versus
State of Maharashtra Respondent

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- Mr.Dheeraj Panchange, Advocate appointed by Legal Aid Services Committee for Applicant.
- Mrs.G.P. Mulekar, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 20th NOVEMBER, 2021**

P.C. :

1. This is an application for bail in connection with C.R.No.409/2017 registered with Kandivali Police Station, Mumbai, under sections 354, 506-II of the Indian Penal Code and under sections 8 and 12 of The Protection of Children from Sexual Offences (*POCSO*) Act, 2012 The Applicant was arrested on 12/10/2017 and since then he is in custody. The investigation is over and the charge-sheet is filed on 24/11/2017.

2. This is an application through jail. Therefore Mr.Dheeraj Panchange is appointed to represent the Applicant. I have heard him and the learned APP Mrs.G.P. Mulekar for State.

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3. The investigation papers in the form of charge-sheet are produced before me. Learned APP also produced the report showing antecedents against the Applicant.
4. The prosecution case is that, on 09/10/2017 the informant's niece aged 12 years wanted to go to toilet in the nearby area. She was reluctant to go in that area alone. She requested her aunt, the first informant, to accompany her in that area. The first informant found it strange and made further enquiries. At that time the victim girl told her that on the previous day, the Applicant had caught her in a secluded spot near the toilet. He had forcibly outraged her modesty. The victim had shouted at that time and therefore he had run away. On this basis, the FIR is lodged.
5. During the investigation, statement of victim girl was recorded. She has narrated the incident in the same manner. Therefore at this stage, there is some definite material against the present Applicant. The veracity of material will have to be

tested during the trial. The victim being aged 12 years of age, offence assumes more seriousness. The learned APP pointed out that three witnesses in the trial are already examined. There are not too many witness in this case.

6. Learned counsel for the Applicant relied on the case of the Applicant mentioned in the application sent by the Applicant through jail. In this application he has stated that he was in the business of catering. He was gaining good name in the area. His aunt was jealous of him. She had property dispute with the Applicant. Therefore she used the informant who in turn using the victim girl had lodged this false case against him.
7. The defence of the Applicant will have to be tested after the evidence is led. At this stage, it is difficult to record any finding regarding what the Applicant has stated in his application.
8. Learned APP has also tendered a report, which is taken on record and marked 'X' for identification. The report shows that the Applicant has 20 registered offences against him since

2006. The Applicant was granted bail on the ground of spread of Covid-19 and even when he was on interim bail, he has committed two more offences.

9. In this background it is not possible to grant bail to the Applicant. However, considering that three witnesses are already examined, the trial can be concluded within a short time.

10. Hence, the following order :

ORDER

- (i) The application for bail is rejected.
- (ii) Learned trial Judge is requested to conclude the trial within the period of four months from today.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)