

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

CRIMINAL BAIL APPLICATION NO.3871 OF 2021

Vijay Anil Vajale

...Applicant

Vs.

The State of Maharashtra & Anr.

... Respondents

Mr.Kuldeep Patil i/b Mr.Prashant S. Hagare for the Applicant.

Mr.N.B. Patil, APP for the Respondent-State.

Mr.Yashodeep Deshmukh a/w Mr.Vaidehi Deshmukh a/w Kinjal Kanani for Respondent No.2.

CORAM : C.V. BHADANG, J.

DATE : 6 APRIL 2022

P.C.

. By this Application, the Applicant is seeking bail in Crime No.528 of 2021 registered with Tembhurni Police Station, Taluka-Mahad, District-Solapur, under Section 354 and 354-A of Indian Penal Code and Section 12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO' for short)

2. The aforesaid Crime is registered on the basis of the complaint dated 10 August 2021 lodged by the mother of the victim.

3. The victim at the relevant time was aged about 12 years and 7 months and was taking education in VIIth Standard.

It is alleged that on 9 August 2021 at about 11.30 a.m. when the victim was coming back from her school, the Applicant intercepted her. The Applicant is alleged to have caught hold of the hand of the victim and told her that he likes her and soliciting a kiss.

4. The learned counsel for the Applicant submitted that the offence under section 11 of the POCSO Act of sexual harassment, is punishable under Section 12 inviting a maximum sentence of imprisonment for 3 years with fine. It is submitted that the investigation is complete and charge-sheet is filed and further detention of the Applicant, pending trial is not warranted.

5. The learned APP has pointed out that there is a previous Criminal case registered against the Applicant for offence punishable under Section 306, 354D of Indian Penal Code read with Section 8 of the POCSO Act. He points out that on similar allegations of harassment of a minor girl, who committed suicide, the Applicant is facing prosecution. He therefore submitted that there is possibility of misuse of the bail, if granted.

6. I have carefully considered the circumstances and the submissions made. Presently the Court has to confine to the allegations, in the present crime, while considering the prayer for

bail. Albeit the consideration of the criminal antecedents would arise thereafter. The allegation insofar as the present complaint is concerned is that the Applicant caught hold of the hand of the Applicant, saying that he likes her and asking for a kiss. The Act by any standards is uncalled for and not justified.

7. However, considering the fact that the offence would fall under Section 11 of the POCSO Act which invites a maximum sentence of 3 years under Section 12 and further having regard to the fact that the investigation is complete and the Applicant is in custody since 13 August 2021, I find that the Applicant can be admitted to bail. The apprehension expressed on behalf of the prosecution can be taken care of by imposing conditions.

8. In the result, the following order is passed.

ORDER

(i) The Applicant-Vijay Anil Vajale be released on bail in Crime No.528 of 2021 registered with Tembhurni Police Station, on execution of a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

(ii) The applicant shall undertake to remain present during the course of the trial, unless exempted.

(iii) The applicant shall not directly or indirectly make any attempt to contact/influence or threaten or pressurize the victim, the complainant or otherwise tamper with the prosecution evidence/witnesses.

(iv) The Applicant shall report to the concerned police station once in every month on first Monday of each month, pending trial.

(v) The Applicant shall not indulge into any similar offence while on bail.

(iv) In the event of breach of any of the conditions the bail is liable to be cancelled.

C.V. BHADANG, J.