

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

CRIMINAL BAIL APPLICATION NO. 2244 OF 2022

Rushikesh @ Aba Dattatraya
Kadam

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Mr.Prashant S.Hagare for applicant.

Mr. A.A. Palkar, APP for the State.

Mr. Sunil Ugale, PSI, Shirur Police Stn., Pune Rural, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 1st DECEMBER, 2022.

P. C. :-

1. This is an application under Section 439 of Cr.P.C. filed by the aforesaid applicant, who is facing trial in Sessions Case No.377 of 2022 pending on the file of learned Additional Sessions Judge, Pune, for offences punishable under Sections 354A, 354D and 504 r/w.34 of the Indian Penal Code and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. Heard, Mr. Prashant Hagare learned counsel for the Applicants and Mr. Devyani Kulkarni, learned APP for the State. I have

perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The crime against the applicant was registered pursuant to the FIR lodged by the maternal aunt of the victim, who is a 16 years old child. The victim has stated that the applicant and two others had been following her to her school and were making obscene gestures. She has stated that they had also threatened to cause death of the victim, in case she disclosed their names to any other person.

4. The victim has stated that on 21/3/2022 the applicant told her to meet him under Mango Orchard at about 11.00p.m. She informed her brother that the applicant had called her. She has stated that she went to the Mango Orchard at about 11.00p.m. The applicant was present alongwith the co-accused Vaishnav Kulal and Sonya Kadam. She has stated that the applicant held her hands and pulled her towards him. She has stated that on seeing her brother, the applicant and co-accused ran away from the place of incident.

5. The statement of the victim prima facie reveals that the applicant and the co-accused were stalking her and that the applicant had called her to the Mango orchard and pulled her towards him. The

accusations levelled against the applicant prima facie constitutes offence under Section 354A and 354D of IPC and Section 12 of the POCSO Act which are punishable with maximum sentence of three years. Though the applicant is also alleged to have committed an offence punishable under Sections 8 of the POCSO Act, the FIR does not prima facie indicate that the applicant had committed offence of sexual assault. Hence provisions of Sections 7 and 8 are prima facie not attracted.

6. Considering the nature of the allegations and also the age of the applicant, in my considered view, this is a fit case for grant of bail. Hence the application is allowed on the following terms and conditions:

- i) The applicant, who is facing trial in Sessions Case No.377 of 2022 pending on the file of learned Additional Sessions Judge, Pune, be released on bail on executing PR bond of Rs.25,000/- with one or two sureties of like amount.
- ii) The applicant shall report to PI Shirur Police Station on first Monday of every Month till framing of the charge.

iii) The Applicant shall not interfere with the complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

iv) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

7. Bail Application stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)