

D.A.Ethape

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

CRIMINAL BAIL APPLICATION NO. 1828 OF 2022

Keshav Dhruvbal Phondaba	...Applicant
Versus	
The State Of Maharashtra and Anr.	...Respondents

Ms. Neha Rane i/by Mr. Prasad Panchal Advocate for Applicant.
Ms. Anamika Malhotra, APP for Respondent-State.
Mr. Surel Shah Appointed Advocate for Respondent No.2.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 4th SEPTEMBER, 2023

P.C.:

1. Leave to amend forthwith.
2. By this application, Applicant is seeking bail in Crime No. 169 of 2020 registered with Malvan Police Station, Sindhudurg for offences punishable under Sections 376(1), 376(2)(j), 376(3), 376(da), 354, 354(A)(1)(i), 354(c), 323, 504, 506 read with 34 of the Indian Penal Code, 1860 ('IPC' for short), Sections 4, 6, 8, 12 and 17 of the Protection Of Children From Of Sexual Offences Act, 2012 ('POCSO' for short) and Section 66(D) of the Information Technology Act ('IT Act' for short).
3. It is prosecution's case that, victim has been sexually assaulted by the two co-accused and applicant had moved his hand over her body.

Hence, mother of the victim lodged complaint against applicant and co-accused.

4. It is the contention of learned Counsel for the applicant that, the applicant has been falsely implicated in this case. Learned counsel further submitted that, present applicant did not have any forceful physical relationship with the victim. It is highly doubtful whether the incident as narrated in the FIR had ever occurred or the statement given by the victim to the police. From the complaint given against the applicant does not disclose that there was sexual intercourse or physical assault done by the applicant. No specific role is attributed against the applicant. Applicant is behind bar more than three years. He is the earning member of his family. Hence, requested to allow the application.

5. It is the contention of learned APP that, the allegations against applicant are that, he outraged modesty and touched the body of victim inappropriately. Co-accused are the friend of applicant. They took victim to resort and committed sexual assault on her. The applicant was present there when the said incident was happened. It shows his involvement in the said crime. If the applicant is released on bail he may threaten the victim. Hence, requested to reject the application.

6. Learned counsel for Respondent No.2 reiterates the submissions made by learned APP.

7. I have heard the learned Counsels. Perused the FIR and charge-

sheet.

8. The allegations against the applicant are that, he had moved his hand over the body of victim. Except this, there are no allegations against the applicant. The applicant is behind bar more than three years and yet trial has not been commenced. The applicant is 25 years old. Considering above facts, further detention of the applicant is not required.

9. In view of above, I pass following order:

ORDER

(i) Applicant be released on bail in C.R. No. 169 of 2020 registered with Malvan Police Station, Sindhudurg on executing PR bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(ii) Applicant shall attend concerned Police Station once in a month i.e. on first Monday of the month between 11.00 a.m. to 3.00 p.m. till framing of charge.

(iii) Applicant shall not tamper with the evidence and/or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

(iv) The Application is allowed in the aforesaid terms.

[SHIVKUMAR DIGE, J.]