

MHCC050063182019



**IN THE COURT OF SPECIAL JUDGE UNDER THE
PROTECTION OF CHILDREN FROM SEXUAL OFFENCES
ACT, 2012 AT BORIVALI DIVISION, DINDOSHI, MUMBAI
BAIL APPLICATION (EXHIBIT-3)**

**IN
POCSO SPECIAL NO.450 OF 2019
(CNR No. : MHCC05-006318-2019)**

Priyanshu Rajeev Singh

Age : 27 Years.

R/o. Room No.10, Devi Bhavani Chawl,

Near Ramu General Stores,

S. V. Road, Upper Tunga, Powai, Mumbai.

....Applicant/accused

V/s.

The State of Maharashtra

(At the instance of Powai Police Station)Respondents

Advocate Ms.Kruti V. Mehta for the applicant/accused.

Spl.P.P. Mrs. Geeta Malankar for the State.

**CORAM: H.H.THE SPECIAL JUDGE,
SMT. H.C. SHENDE, (C.R.NO.12)**

DATE : 20th January, 2020

O R D E R

The applicant has moved this application U/section 439 of the Code of Criminal Procedure 1973 (hereinafter referred as “Cr.P.C ”) for grant of bail in C.R. No.475/2019 for the offences punishable U/sec. 376(2), (n),(f),(i) and 506(II) of IPC and u/s.4, 6, 8 and 12 of the

Protection of Children from Sexual Offences Act, 2012 registered with Powai Police Station.

2. It is argued on behalf of the applicant/accused that the victim girl is 16 years old studying in school. The case of the prosecution is that the applicant has committed forceful sexual intercourse with the victim girl at his house, while she used to go to tuition, and threatened her not to disclose the incident and otherwise he will give poison to her parents.

3. Further allegation made by the prosecution is that on 05/07/19 the applicant assaulted to the sister of the victim also and so the FIR was lodged. Actually the story is false. The accused is made a scape goat by the father of the victim. There is a delay of about 31 days in lodging the FIR which shows that conspiracy is made against the accused by the complainant. There are no eye witnesses in this matter. The accused is a young boy of 21 years. He is innocent, only earning member of his family. Actually the accused and the victim were in love since last one year. It would be impossible to accept that such incident has been taken place in the house situated in the crowded area. The accused is implicated falsely in the matter as he refused the demand of the complainant of Rs.6 lakhs. The FIR was lodged by the victim under pressure. The conduct of the victim is self-stating that she did not raise any voice against the alleged act. The victim and the accused were knowing to each other. The accused has already co-operated to the investigation. The Charge-sheet came on record. Now there is no need to keep him behind bar any more. He will abide every condition. He be released on bail.

4. The prosecution, however, resisted the bail application by filing detailed say. In addition to it, the Learned SPP submitted that the victim girls are minor. There are two victims in this matter. The first victim was going for the class at the house of Taniya Singh but as she was not able to take her class, the present applicant started taking her tuition. The victim was calling to the applicant "Priyanshu Chacha" is itself suggesting that she was giving respect to the applicant.

5. It is further submitted by the Learned SPP that since January 2017 the accused started behaving indecently with the victim girl and thereafter he assaulted her sexually. Then he gave threats not to tell it to anybody. When the victim was refusing to attend the class, he was calling to her mother and was behaving in a very decent manner with her parents. The victim, therefore, was not able to disclose anything to anyone. Then she went at native and when she came back, the accused again started keeping sexual relation with her. Then the victim was not able to tolerate all this sexual and mental harassment to her so she became ill. She was admitted to the hospital but she was not giving response to the treatment. Her health was deteriorating. Meanwhile she came to know that the accused sexually assaulted to her sister also and when considering her situation the mother insisted her to tell what happened with her then only she disclosed everything. The accused not only molested to the first victim but also after continuous sexual assault on her, he molested other girl who is the sister of first victim by giving threats to them. He by taking disadvantage of the situation, committed sexual assault on another minor victim. The offence, therefore, becomes more heinous, more serious. The accused if released on bail, he will commit same offence. The possibility cannot be ruled out

that he will take disadvantage of the liberty granted to him so he should not be released on bail.

6. Heard both sides at length.

7. Perused the record.

8. The statement of the witnesses, victims prima facie suggesting that the victims are minor girls aged 16 years and 15 years respectively. The accused first of all molested the first victim i.e. to the elder sister continuously for a period of one and half year and then by taking disadvantage of her hospitalization, committed sexual assault on other victim girl at her house. The history given by the victim girl to the medical officer is in support of her statement given before the investigating authority. The age of the accused is about 27 years at the relevant time. The victims were calling him as 'Priyanshu Chacha'. The accused by taking advantage of his position over the victims and his position in the house of victim girls, pressurized them and had repeated sexual intercourse with the first victim. The record, therefore, is not allowing me to use my discretion in favour of the accused. I do find reasonable force in the arguments advanced and objection raised by the prosecution that if he is released on bail, he will repeat the same acts. The victim and other witnesses who are under pressure. The law and order situation arose in that area after disclosure of this incident. The possibility also cannot be ruled out that release of accused may adversely affect on the victims and their mind. The accused may flee from law.

9. In the circumstances, this Court is of the firm view that the accused is not at all entitled to be released on bail.

10. Hence, for the reasons mentioned above, the following order is passed :-

ORDER

Bail Application Exhibit-3 stands rejected and disposed of accordingly.

Date : 20.01.2020

(H. C. SHENDE)
Special Judge under P.O.C.S.O. Act,
Sessions Court, Borivali Division,
Dindoshi, Goregaon, Mumbai

Dictated on : 20.01.2020
Transcribed on : 24.01.2020
Checked and corrected on : 04.02.2020
Signed on : 04.02.2020
Sent to Dept. on :

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

UPLOAD DATE

AND TIME : 04/02/2020 at 5.15 p.m.

Mrs. Vidya Pendharkar

NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ H.C.SHENDE (Court Room No.12)
Date of Pronouncement of Judgment/Order	20/01/2020
Judgment/Order signed by P.O. on	04/02/2020
Judgment/Order uploaded on	04/02/2020