

MHCC050012412020



**IN THE COURT OF SPECIAL JUDGE UNDER THE PROTECTION OF
CHILDREN FROM SEXUAL OFFENCES ACT, 2012 AT BORIVALI
DIVISION, DINDOSHI, MUMBAI.**

BAIL APPLICATION(Exh.2)
IN
SPECIAL CASE NO.111 OF 2020
(CNR No.MHCC05-001241-2020)

Vir Kartar Singh @ Firoz Akbarali
Merchant
age 44 years,
Aram Nagar No.2, J.P.Road,
Versova, Opp.Apartments,
Andheri(West), Mumbai-400 061.

....Applicant/accused

V/s.

State of Maharashtra
(Malwani Police Station)

....Respondents

Advocate Mr. Pokharkar for the applicant/accused.

Mr. Salve, APP for the State.

CORAM: H.H.THE SPECIAL JUDGE,
A.D.DEO (C.R.NO.11)
DATE : 6th March, 2020.

:O R D E R:

The applicant/accused has moved this application U/section 439 of the Code of Criminal Procedure 1973 (hereinafter referred as "Cr.P.C ") for grant of regular bail in connection with C.R. No.952/2019

for the offences punishable U/sec.354, 509, 506 of I.P.C. and U/sec.8 and 12 of POSCO Act 2012, registered with Malwani police station.

2. Upon perusal of FIR, it is transpired that informant is the victim. She at the time of lodging of FIR is of 18 years. According to victim, she has younger brother aged 15 years and another elder brother of 20 years. Accused, who is her father would reside separately from them. Accused does not work and he would harass the family members. It is alleged by the victim that in the month of March-2016, when she was alone at home, her father made inappropriate touch to her. When she resisted, accused threatened her that he will kill her. According to victim, she did not disclose about the conduct of accused to anybody. But thereafter accused repeated his conduct 4-5 times. On 22.12.2019 while she was sleeping in the night, she felt that somebody has made touch to her. When she woke up, she saw that accused had slept beside her and was making inappropriate touch to her. At that time, she raised hue and cry. When her mother came to rescue her, accused abused her in filthy language saying that, he has committed same act with victim since last 3-4 years and police cannot do anything against him. According to victim, at that time her mother drew the accused out of the house. Accused himself dialed No.100 seeking help of the police. When the police came at the spot, victim told about the conduct of accused and FIR as mentioned *supra* came to be registered against the accused.

3. In the bail application filed on behalf of applicant/accused vide Exh.2 after filing of charge-sheet, it is submitted that accused is innocent and he is falsely implicated in the offence. He is permanent resident of

Mumbai. Now the investigation is complete and charge-sheet is filed. He denies his presence at the spot of incident. He has submitted that there is matrimonial dispute between accused and mother of victim, hence he came to be falsely implicated. There is no discovery or recovery effected from him. The trial will take considerable time to commence. There is no criminal antecedent to his discredit. He undertakes to adhere to every bail conditions imposed and prays that he be enlarged on bail.

4. Prosecution has filed its say vide Exh.3 reiterating therein contents of FIR and resisted bail application on the ground that accused is father of the victim girl. Both of them reside in the same locality. If he is granted bail, he may commit similar offence again and pressurise the victim and prosecution witnesses. There is also possibility that he may abscond and would not remain present for facing the trial. Hence, it is prayed that bail application be rejected.

5. Heard Ld.Advocate Mr.Pokharkar for the applicant/accused and Ld.APP Mr Salve for the State. Both of them submitted in tune with their respective pleadings.

6. In order to appraise submissions made before me by advocates of both the sides, I have perused the record. Perusal of the statement of one of the witness would show that he lodged 9 NCs against the accused. It is matter of record that present accused is father of the victim. Considering *inter-se* relations between victim and accused, though offence is comparatively minor, but considering antecedent of the accused, I do not find this to be a fit case for consideration of bail. Hence, I pass following

order:

ORDER

Bail Application (Exh.2) stands rejected.

Dt.6.3.2020

**(A.D.DEO)
Special Judge under P.O.C.S.O. Act,
Sessions Court, Borivali Division,
Dindoshi.**

Dictated on : 6.3.2020
Transcribed on : 9.3.2020
Signed on : 11.3.2020
Sent to Dept. on :

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

11.3.2020 at 6.15 p.m

Mrs.S.A.Kapare

UPLOAD DATE AND TIME

NAME OF STENOGRAPHER

Name of the Judge

: HHJ A.D.Deo(CR NO.11)

**Date of Pronouncement of
judgment/order**

: 6.3.2020

**Judgment/order signed by
P.O. On**

: 11.3.2020

Judgment/order uploaded on

: 11.3.2020