

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.8)
IN
SPECIAL CASE NO.111 OF 2020
(CNR No.MHCC05-001241-2020)

**Firoz Akbarali Merchant @
Virus Singh @ Vir Kartar Singh**
age 25 years, residing at
Shop No.202, Aram Nagar No.2,
Opp Parag Apts., J.P.Road,
Malwani, Malad(West),
Mumbai-400 061.

....Applicant/accused

V/s.

State of Maharashtra
(Malwani Police Station)

.....Respondents

Advocate Mr. Asif Patel for the applicant/accused.

APP for the State absent.

**CORAM: H.H.THE SPECIAL JUDGE,
A.D.DEO (C.R.NO.11)**
DATE : 11th May, 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 moved on behalf of accused, it is submitted that this is second bail application after filing of charge-sheet. It

is reiterated that previous bail application that there are multiple NCs filed by the mother of informant against the accused. It is alleged that the mother of the victim was pressuring the accused to convert his religion which she was reluctant to do. Hence, accused came to be falsely implicated. He undertakes to adhere to every bail conditions imposed and prays that he be enlarged on bail.

4. Vide Exh.9, the prosecution has strongly resisted bail application on the ground that the applicant is the father of the victim. They are residing in the same locality. If he is granted bail, he may pressurise the prosecution witnesses. Hence, bail application be rejected.

5. Heard Ld.Advocate Mr.Patel for the applicant/accused. In addition to contents of bail application, it is submitted that considering the Covid-19 circumstances, accused be enlarged on bail.

6 Perused the record. It is matter of record that the earlier bail application of the accused was decided on merits upon perusal of charge-sheet. There is no material change in circumstances. As observed earlier, considering the *inter-se* relations of the accused and victim and conduct of accused trying to terrorise the victim and her mother by calling the police and making statements that police cannot take any action against him. This conduct of the accused and the *inter-se* relations as mentioned *supra*, I do not find this to be a fit case of consideration of bail. Hence, I pass following order:

O R D E R

Bail Application (Exh.8) is hereby rejected.

Dt.11.5.2020

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

Dictated on : 11.5.2020
Transcribed on : 11.5.2020
Signed on : 21.5.2020
Sent to Dept. on :

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

29.5.2020 at 1.30 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**

: 11.5.2020

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

: 21.5.2020

Judgment/order uploaded on

: 29.5.2020