

MHCC050027252024



**IN THE COURT OF SESSIONS, AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI
BAIL APPLICATION (EXHIBIT-4)**

**IN
REMAND APPLICATION NO.226 OF 2024**

Manoj Phuna Shahu @ Manoj Hunasaab Sahu

Age : 33 Years, Occ. : Business.

R/o. : Room No.636, BMC Colony,

Gate No.04, Malwani, Malad (W),

Mumbai-400 095.

...Applicant/accused

V/s.

The State of Maharashtra

(At the instance of Malwani Police Station) ... Respondents

Advocate Mr. Sufiyan Khan for Applicant/original accused.

Spl. APP Mr. A. A. Deotarse for State.

CORAM: H.H.THE SPECIAL JUDGE,

Ms. S. J. ANSARI, (C.R.NO.11)

DATED : 9th July, 2024

ORDER

The present application for bail has been filed by the accused who has been come to be arrested by the Malwani Police Station in Crime No.742/24 registered for the offences punishable under section 354 of the Indian Penal Code (hereinafter referred to as the "IPC") and under sections 8 and 12 of the Protection of Children from Sexual Offences

Act, 2012 (hereinafter referred to as the “POCSO Act”), in remand application No.226/24.

2. A perusal of the FIR as available in the remand application will show that it had come to be lodged by the 13 year old girl herself. Therein, she stated that on 26/05/24 at about 11.48 p.m. she was in there general store on Marve Road, Malad (W), Mumbai and was looking at her mobile. One Manoj Sahu - the accused, then came to the shop for taking the money which was to be paid to him on account of the victim’s family having purchased materials from him. As it was time to close the shop, the informant’s maternal uncle pulled down the shutter half way from outside. At that time, the said Manoj Sahu asked the victim girl as to what was she seeing in her mobile at which she stated that she was not seeing anything. Suddenly, the said Manoj Sahu sat near the victim girl, caught hold of her face in both of his hands and kissed her on her right cheek. The victim girl then started raising a hue and cry at which her mother, sister and neighbours came running to the spot. This resulted in the lodging of the FIR and the arrest of the accused.

3. However, as per the accused, he has been falsely implicated in the matter. Further, stating that he is a permanent resident of Mumbai, that he belongs to a respectable family due to which there is no question of he jumping bail if the relief is granted to him, that he does not suffer from any criminal antecedents and would abide by all the terms and conditions which may be imposed upon him, he is seeking his release.

4. The investigating officer has filed his say (Exh.6). Therein, after stating all the facts of the incident, it has been contended that the application for bail should be rejected as the accused if released, will threaten the informant as they reside in the same area. Lastly, it has been stated that the offence appears to have been committed on account of a dispute regarding money between the victim's mother and the accused.

5. The victim girl has also filed her say (Exh.5). Therein, she has stated that after considering the fact that the wife of the accused is pregnant and that the accused has small children, the victim is giving a no objection to the application. At the same time, it has been stated that the family members of the accused have in their area started saying that the victim girl is co-operating with them on account of having taken Rs.4 lakhs.

6. Heard the learned Advocate for the accused. The learned APP has made his written submissions on the say as given by the investigating officer. While the Advocate for the accused has pointed out that the alleged offence is not at all serious in nature and the FIR had come to be registered on account of a false complaint as the girl's parents did not want to return his money, the learned APP has stated that as the investigation is still pending, the release of the accused will hamper the same. Stating that the accused will pressurize and harm the victim, repeat the offences and may also not be available for trial, he has sought the rejection of the application.

7. Prima facie, though the chargesheet in the matter has not been filed, the fact that the accused is in judicial custody, will show that his physical presence is no longer required for the purposes of

investigation. Though the FIR may indicate the involvement of the accused in the crime in question, the offences allegedly committed by him carry a maximum punishment of imprisonment of five years and fine. The said offences are therefore, serious in nature but cannot be said to fall in the category of heinous offences. There is also nothing placed on the record to show that the accused suffers from any criminal antecedents. Hence, as appropriate conditions can be imposed upon the accused to deal with the apprehensions expressed by the investigating officer and the learned APP, I am of the view that he can be said to have made out a case for grant of bail. In the result, I proceed to pass the following order :-

ORDER

- 1) Bail Application Exhibit-4 stands allowed.
- 2) The accused Manoj Phuna Shahu @ Manoj Hunasaab Sahu who is arrested in Crime No.742/24 registered by Malwani Police Station for the offences punishable u/s.354 of the Indian Penal Code and u/s.8 and 12 of Protection of Children from Sexual Offences Act, 2012, is released on bail on executing P.R. Bond of Rs.15,000/- with one or two solvent sureties in the like amount on the following conditions :
 - a) The accused shall not threaten/pressurize the victim girl, her family members and prosecution witnesses in any manner. He shall not cause any harm to them.
 - b) He shall provide his registered address in Mumbai, proof of his native place and relevant contact numbers to the concerned police station.
 - c) He shall also submit the documents of two of his blood relatives reflecting their proper addresses and contact numbers to the concerned police station.

- d) He shall attend the Court regularly on the fixed date and shall not remain absent unless and until exempted from his appearance by the Court.

Date : 09.07.2024

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

Dictated on	: 09.07.2024
Transcribed on	: 09.07.2024
Checked and corrected on	: 10.07.2024
Signed on	: 10.07.2024
Sent to Dept. on	:

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

UPLOAD DATE

AND TIME : 10/07/2024 at 3.08 p.m.

Mrs. Vidya Pendharkar

NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ S. J. ANSARI (Court Room No.11)
Date of Pronouncement of Judgment/Order	09/07/2024
Judgment/Order signed by P.O. on	10/07/2024
Judgment/Order uploaded on	10/07/2024