

MHCC050011412020



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

BAIL APPLICATION (Exh.4)

IN

**SPECIAL CASE NO.94 OF 2020
(CNR NO.MHCC050011412020)**

IN

C.R.NO.245 OF 2019

Mohammad Jafar Shaihi

....Applicant/accused

V/s.

**The State of Maharashtra
Aarey Police Station.**

....Respondents

Adv.Shri Abdul Shaikh for applicant.
APP Chauhan for the State.

**CORAM: H.H.THE SPECIAL JUDGE,
SMT.S.M.TAKALIKAR, (C.R.NO.12)
DATE : 2nd July, 2021.**

ORDER

1. Present application is filed by the applicant under Section 439 of Code of Criminal Procedure for regular bail in connection with C.R.No.245 of 2019 for the offences under Section 354, 354A, 354B and 325 of IPC

r/w. Section 8 and 12 of POCSO Act.

2. Facts in short of prosecution case are as follows:

That on 14.12.2019 at 8.30 p.m. the accused called the victim girl in his house. The accused pressed the breast of the victim, kissed her, bite on her lips and cheeks. Thereafter the victim started crying. Thereby persons gathered there. The victim narrated the said incident to the complainant. On the basis of said information complainant lodged the complaint against the accused. On the basis of her complaint abovementioned crime has been registered against the accused.

3. The applicant in his application stated that he has not committed any offence. Since 15.12.2019 he is behind the bar. Investigation has been completed. Chargesheet has been submitted. The applicant is aged person suffering from various diseases. He is only earning member of the family. The statement of witnesses are not consistent with each other. There is no strong prima facie case against this applicant. The applicant is permanent resident of Mumbai. He has no criminal history. Hence, he prayed for bail.

4. Ld.APP has filed say below Exh.5. It is contended that nature of offence is serious. There is possibility of threatening the victim and other witnesses. And also possibility of absconding. Hence, prayed for rejection of bail.

5. Ld.Advocate for the applicant in his written notes of argument submitted that there is no prima facie evidence against this applicant. Charge sheet is filed. The applicant is old aged person. He is suffering from

various diseases. The custody of the applicant is not required. The applicant will not tamper prosecution evidence and obey all the terms and conditions that will be imposed. Hence, he prayed that applicant be released on bail.

6. Ld.APP submitted that victim is 12 years and 11 months old. The applicant is 55 years. She invited my attention to the medical report and submitted that the applicant is resident of same vicinity. Therefore, there is possibility of threatening. Hence, she submitted that bail be rejected.

7. Perused the application, say filed. Also perused the chargesheet. Upon perusal of statement of the victim she has specifically stated about the alleged incident. Record shows that when the victim started crying one neighbouring lady went there. She even slapped the accused. There is statement of one independent witness. The victim is 12 years and 11 months old. The applicant is 55 years old. The allegations against this applicant are serious. Upon perusal of medical report, it appears that there are bite marks on the person of the victim. The medical evidence prima facie supports the prosecution case. There is prima facie evidence against this applicant. Further the applicant resides in the same locality where the victim resides. Therefore, there is possibility of threatening the victim and also possibility of pressurizing one independent witness. Therefore, in my opinion, the applicant has not made out just and reasonable ground to release on bail. Hence, application deserves to be rejected and I pass the following order.

ORDER

1) Bail application (Exh.4) is hereby rejected.

BA.(Exh.4)

:: 4 ::

Spl.C.94/2020

2) Bail application (Exh.4) stands disposed off accordingly.

Date :02.07.2021

Sd/-

(S.M.TAKALIKAR)

**Special Judge under P.O.C.S.O. Act,
Sessions Court, Borivali Division,
Dindoshi, Goregaon, Mumbai**

Dictated on : **02.07.2021**

Transcribed on : **02.07.2021**

Signed on : **02.07.2021**

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

07.07.2021 at 2.15 p.m **Mrs.S.S.Bandekar(S.G.Steno)**

UPLOAD DATE AND TIME **NAME OF STENOGRAPHER**

Name of the Judge **: Smt. S.M.Takalikar (CR NO.12)**

**Date of Pronouncement of
judgment/order** **: 02.07.2021**

**Judgment/order signed by
P.O. On** **: 02.07.2021**

Judgment/order uploaded on **: 07.07.2021**