

MHCC050024862020



**IN THE COURT OF SPECIAL JUDGE UNDER THE PROTECTION
OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012 AT
BORIVALI DIVISION, DINDOSHI, MUMBAI
BAIL APPLICATION (EXHIBIT-4)
IN
POCSO SPECIAL CASE NO.225 OF 2020**

Prakash Pandurang Rane

Age : 44 Years, Occ. Service.

R/o. Room No.261/B, Shivneri Chawl,

Maharashtra Nagar, Kurar Village,

Malad (E), Mumbai-400 097.

....Applicant/accused

V/s.

The State of Maharashtra

(Through Kurar Police Station)

.....Respondents

Advocate Mr.Arvind Yadav for Applicant/original accused.

Spl. APP Mrs. Geeta Malankar for State.

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

DATE : 22nd September, 2020

ORDER

The applicant has moved this application u/s.439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.P.C.”) for grant of bail in C.R. No.126/20 for the offences punishable U/sec. 452, 354, 509, 506(II) of Indian Penal Code and u/s.8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (Hereinafter referred to as “POCSO Act” in short) registered with Kurar Police Station.

2. It is argued on behalf of the applicant/accused that the applicant is a permanent resident of Mumbai and is residing along with his family members at the address mentioned in the title clause. He comes from a respectable family having roots in the society. He is falsely being roped in the matter. There are earlier false complaints against the applicant filed by the same informant. Present crime is absolutely false and frivolous. Neither any recovery is to be effected from him nor he is in a position to tamper with the evidence or prosecution witnesses. His further custody is not required. He is willing to co-operate with the investigation and there is no reason that he will abscond or tamper with the witnesses. There is no criminal antecedents to his discredit. If he is granted bail, he shall not abscond and would face the trial so he be released on bail. He will not contact to minor or witnesses, he will withdraw himself from the jurisdiction of Kurar Police Station. He is the only bread earner of his family. He needs to be released on bail. He shall abide by all the terms and conditions imposed by this Court.

3. The prosecution objected bail application on the grounds mentioned in the say.

The Learned APP relied on said grounds and further submitted that the accused earlier also behaved indecently. One Crime No.107/20 u/s.509, 506 of IPC was registered against him. After getting bail in that matter in which the informant is same i.e. the informant of this matter. The applicant again entered in the house of complainant on 07/03/20 and on very next date of his release on bail in above mentioned earlier crime registered against him on the basis of FIR lodged by the informant. The

applicant entered in the house of the complainant in heavy drunken condition. He behaved indecently with the minor girl and as the informant went to rescue her, she was also molested at the hands of the applicant. He not only behaved indecently but with his intent to molest the informant and victim committed this crime on 07/03/20 i.e. on very next day of his release on bail in previous crime. He used very threatening language for them so they still are under fear. There is every possibility that he will commit any cognizable crime again with the victim and witnesses by causing assault to them. He may flee away. The offence is serious. At the most the trial can be proceeded and finished at the earliest but he should not be released on bail.

4. Heard both sides at length. Perused the record.

5. The offence is registered u/s.452, 354, 509, 506(II) of IPC and u/s.8 and 12 of POCSO Act against the accused. It appears from the FIR itself that initially one FIR was lodged by the informant. The accused came out with bail and on the very next day, he entered in the house of the informant. He handled the victim very badly and used very abusive language for the victim as specified in the FIR. He said that he will physically assault to the minor victim. The informant when tried to save the helpless girl, he badly touched to the informant as mentioned in the FIR and pushed her. She made call for help. The people gathered and still the applicant by giving threats with filthy words, left the spot. On perusing the record, it appears that the allegations made by the victim and informant are corroborated by the rest witnesses also. They witnessed the act of the accused and the incident taken place for which the FIR came to be filed.

6. Now we must keep in mind that only because of previous complaint, the accused after getting bail, entered inside the house of the victim and again committed a cognizable offence by assaulting the minor and informant. He was not even afraid of the people gathered as it comes out of the statement of other witnesses.

7. In the circumstances mentioned above, I do find reasonable base in the apprehension put up by the prosecution that the accused if without having any fear after his release on bail, went inside the house of the informant in heavy drunken condition and committed crime as reported in the FIR, then the possibility cannot be ruled out that he will cause harm to the victim and informant by contacting them. In such circumstances, the whole purpose and object of the POCSO Act will be frustrated. Because of the acts and behaviour of the accused, it seems that he does not have fear of law and of society. Such circumstances constrained me to conclude that the applicant is not entitled to be released on bail. At the most we can proceed with the trial if co-operated by both sides.

8. Hence, in the given circumstances and for the reasons mentioned above, this Court proceed to pass the following order :-

ORDER

Bail Application Exhibit-4 stands rejected and disposed of accordingly.

Date : 22.09.2020

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

BA Exh.4 in SPL.225/20

:: 5 ::

ORDER

Handwritten order given on : 22.09.2020
Typed on : 24.09.2020
Checked and corrected on : 24.09.2020
Signed on : 24.09.2020
Sent to Dept. on :

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

UPLOAD DATE

AND TIME : 24/09/20 at 11.44 a.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	22/09/2020
Judgment/Order signed by P.O. on	24/09/2020
Judgment/Order uploaded on	24/09/2020