

Exh.12

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Spl. Case No.225-2021

MHCC050032132021



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

**BAIL APPLICATION(Exh.12)
IN
SPECIAL CASE NO. 225 OF 2021
(C.N.R. NO.MHCC05-003213-2021)**

Mr. Prabhakar Ramchandra Shinde,
Aged about 65 years, Occ. : Retired,
Adult Indian Inhabitant residing at
Janseva Chawl No.04, Behind
Ramchandra Temple, Anand Nagar,
Jogeshwari (W), Mumbai.

...Applicant/accused

Versus

The State of Maharashtra
(Through Oshiwara Police Station,
CR No.227/2021)

...Respondent

Appearance:-

Shri Vikas Singh, Advocate for the applicant/accused.
Smt. Malankar, APP for State.

**CORAM: H.H.THE SPECIAL JUDGE,
SMT.S.M.TAKALIKAR, (C.R.NO.12)
DATE : 27th June, 2023.**

: ORDER:

Present application is filed by the applicant/accused under
Section 439 of the Code of Criminal Procedure for regular bail in

connection with C.R. No.227/2021 registered with Oshiwara police station for the offences punishable under Sections 376, 376-B and 354 of the Indian Penal Code, 1860 and Sections 6, 10 and 12 of the Protection Of Children from Sexual Offences Act, 2012.

Facts in short of prosecution case is as follows:

2. The complainant is the mother of the victim. On 22.04.2021, the complainant went to do domestic work. Some of the persons of the locality had seen the accused molesting the victim girl, who is 9 years old. They told the complainant. The complainant immediately came to the house. She asked the victim what had happened. The victim narrated that the accused on the pretext of giving chocolate to her, took her behind the building. He made her to sit on his thigh, asked her to touch his private part and inserted his finger into her private part. He also inserted his private part into her private part. Thereafter, the complainant went to police station and lodged complaint of the incident. On the basis of the said complaint, above mentioned crime has been registered against the applicant/accused.

3. The applicant in his application stated that he is innocent, has not committed any offence. He is senior citizen of 67 years old. He is suffering from various ailments. Since 23.04.2021, he is in jail. The trial in the matter is not yet started. Victim has denied medical examination. Section 376 of IPC is not applicable. He has been falsely implicated. He is permanent resident of Mumbai, has no criminal antecedent. Investigation is completed and charge-sheet has been submitted. Further custody of the

applicant is not required. Hence, prayed that the application be allowed.

4. Prosecution has filed say below Exh.15 stating that there is possibility of tampering the witnesses, possibility of remaining absent at the time of trial and possibility of repetition of crime. Hence, prayed that the application be rejected.

5. Ld. Advocate for the applicant/accused submitted that this is a second bail application. Accused is 66 years old, suffering from various ailments. Charge has not yet been framed. The trial would take considerable time. Hence, prayed that the application be allowed.

6. Ld. APP submitted that previous bail application of the accused has been rejected on merits. There is no change in circumstance. There is possibility of tampering the witnesses. Hence prayed that application be rejected.

7. Perused application, say filed. Also perused the charge-sheet.

8. It appears that this is a second bail application filed by the accused. Since rejection of first bail application till today, there is no change in circumstance. Therefore, at the very outset this application is not maintainable.

9. The accused has alleged that he is suffering from various ailments. But it appears that he has been provided medical treatment from time to time as and when required. In the case in hand, victim is 9 years

old. The allegation is that accused took her behind one building and inserted his finger into her private part. So also he inserted his private part into her private part. Upon perusal of statement of the victim, she has specifically stated this fact. Further some persons made video of the incident and said person told this fact to the mother of the victim. The video has been taken into pendrive. This is a prima facie material against the accused. Further there are some witnesses, who had seen accused taking the victim to an isolated area. In case, the accused is released on bail, then there are chances of threatening the victim. Accused and victim reside in the same area. He is landlord of the victim and complainant. There is possibility of threatening the victim, possibility of tampering the prosecution witnesses and also possibility of repetition of crime.

10. Taking into consideration the age of the victim and the nature and gravity of the offence and also taking into consideration the fact that the accused residing in the same locality, there are chances of threatening the victim and other witnesses, in my opinion, the applicant has not made out just and reasonable grounds for release on bail. Hence, his application deserves to be rejected. Resultantly, I passed following order :-

ORDER

1. Bail Application (Exh.12) is hereby rejected.
2. Bail Application (Exh.12) stands disposed of accordingly.

Date : 27.06.2023

(S. M. TAKALIKAR)
Special Judge under the POCSO Act
Borivali (Div), Dindoshi,
Goregaon, Mumbai.

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Dictated on : 27.6.2023
Transcribed on : 27.6.2023
Checked on : 30.6.2023
Signed on : 30.6.2023
Sent to Department on:

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

4.7.2023 at 3.35 p.m. UPLOAD DATE AND TIME	Mrs.S.A.Kapare STENOGRAPHER(Grade-I) NAME OF STENOGRAPHER
Name of the Judge (With Court Room No.)	HHJ Smt. S. M. TAKALIKAR , (C.R.No.12), Addl. Judge., City Civil & Sessions Court, Dindoshi
Date of pronouncement of Judgment/Order	27.6.2023
Judgment/Order signed by P.O. on	30.6.2023
Judgment/Order uploaded on	4.7.2023