



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

BAIL APPLICATION EXHIBIT-5

IN

REMAND APPLICATION 148 OF 2022

(CNR NO.: MHCC05-001804-2022)

Bhim Amarnath Gupta

Age: 32 Yrs, Occ: Service,

R/at. R. No. 75,

in front of Murgan Temple,

Valnai Vasahat, Malad W.

Mumbai

...Applicant/Accused

V/s.

The State of Maharashtra,

(At the instance of Malad

Police Station vide C.R.No.319/22)

...Respondent/State.

Appearance:-

Shri. S.K.Saha, Advocate for the applicant/Accused.

Smt. Chauhan, APP for the State/respondent.

CORAM : HER HONOUR ADDL. SESSIONS JUDGE

SMT.S.M.TAKALIKAR, (C.R.NO.12)

DATE : 11.07.2022

ORDER

Present application is filed by accused/applicant for release on regular bail under Section 439 of Code of Criminal Procedure in connection with C. R. No. 319 of 2022 registered at Malad Police Station for offences punishable under Sections 376, 354, 509 of the Indian Penal Code read with Sections 4, 8, 12 of the Protection of

Children from Sexual Offences Act, 2012.

Facts in short of prosecution case is as follows:

2. Victim is daughter of maternal uncle of the complainant. On 05/04/2022 at 3.30 pm complainant has come to the house from work. She went to gallery for drying clothes. She found that the accused was dragging the victim. He was on motor cycle. Victim was trying to rescue from him. Accused pulled her near him, touched to her chest, back and started doing obscene act. Complainant went there, that time accused left her. Complainant asked victim what had happened. Victim said that accused gave some money to her and touched to her private part, inserted his finger to her private part. Thereafter complainant went to police station, lodged complaint of the incident. On the basis of said complaint above mentioned crime has been registered against the accused.

3. Accused applicant in his application stated that he is innocent, falsely implicated. He has not committed any offence. He is only earning member of the family. There is no concrete evidence against him. Investigation has been completed. Charge-sheet has been submitted. He is permanent resident of Mumbai, has no criminal antecedents. Hence prayed that application be allowed.

4. Prosecution has filed say below Exh.6. It is contended that there are chances of repetition of crime, chances of threatening the victim and other witnesses. The accused is residing in the same locality. Therefore there are chances of pressurizing the family members of the victim. Hence prayed that application be rejected.

5. Complainant filed say below Exh.7. She has no objection for release of the accused on bail.

6. Ld. Advocate for the accused invited my attention towards the FIR and submitted that area in which the alleged incident took place is crowded area therefore such type of incident is not possible. There is delay in lodging complaint. The accused is permanent resident of Mumbai, he has no criminal antecedents. Charge-sheet has been submitted. Hence prayed that application be allowed.

7. Ld. APP submitted that victim is 8 yrs 3 months old. She invited my attention towards the medical certificate and submitted that there are chances of threatening the victim and chances of repetition of crime. Affidavit given by complainant does not mean that bail be granted. Hence prayed that application be rejected.

8. Perused application, say filed. Also perused charge-sheet and record of the case.

9. It appears that complainant has given no objection for grant of bail of the accused but it is necessary to mention her that the victim is maternal uncle's daughter of the complainant. The complainant has no close relationship with the victim. Victim is hardly 8 yrs and 3 months old. Therefore no objection given by the complainant cannot be taken into consideration.

10. The allegations against this accused is that he given Rs.5 to the victim and removed her knicker, inserted his finger into her private part. Not only that he outraged modesty of the victim. This allegations

made against the accused are serious.

11. I have gone through medical report. It appears that immediately after the incident victim was taken to the hospital. She was medically examined. Medical evidence support the allegations made by the victim. There is eye witness to the incident who has seen the accused taking the victim. Therefore taking into consideration the allegations made against this accused, the age of the victim girl and the fact that the accused resides in the same locality, in my opinion, there are chances of repetition of crime and threatening the victim. Hence the application has not made out just and reasonable ground for release on bail. Therefore his application deserves to be rejected and I pass following order:

:ORDER:

1. Bail Application (Exh.05) is rejected.
2. The application Exh.05 is disposed of accordingly.

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

Date : 11.07.2022

Dictated on : 11.07.2022
Transcribed on : 11.07.2022
Date of sign : 15.07.2022

Order below Exh.5 In RA 148/22

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Dtd.11.07.2022

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

**15.07.2022, 5.30 p.m.
UPLOAD DATE AND TIME**

**Mrs. Revati V. Kadam
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 /Order	11.07.2022
Order signed by P.O. on	15.07.2022
order uploaded on	15.07.2022