

MHCC050025362020



**IN THE COURT OF SPECIAL JUDGE UNDER THE PROTECTION
OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012 AT
BORIVALI DIVISION, DINDOSHI, MUMBAI
BAIL APPLICATION (EXHIBIT-3)
IN
POCSO SPECIAL CASE NO.235 OF 2020**

Mohammed Pyare Lal Babu

Age : 26 Years.

**R/o. Marve House, Near Picnic Hotel,
Sakinaka, Mumbai-400 072.**

....Applicant/accused

V/s.

The State of Maharashtra

(At the instance of Sahar Police Station)

.....Respondents

Advocate Mr. Naushad Ahmed for Applicant/original accused.

APP Mrs. Geeta Malankar for State.

**CORAM: H.H.THE SPECIAL JUDGE,
SMT. H.C. SHENDE, (C.R.NO.11)
DATE : 16th March, 2021**

ORDER

The applicant has moved this application u/s.439 of Cr.P.C. for grant of bail in C.R. No.87/20 for the offences punishable U/sec.376(3), 377 and 506 r/w.34 of IPC and u/s.4, 6, 8 and 10 of the Protection of Children from Sexual Offences Act, 2012 (Hereinafter referred to as “POCSO Act” in short) registered with Sahar Police Station.

2. By way of this application and through oral submissions, it has been argued on behalf of the applicant/accused that the applicant is falsely

implicated in the present matter. He is innocent and has nothing to do with the alleged offence. The complaint is lodged by the complainant in a fit of anger and to heavy the gravity of the offence. As there is previous enmity between them due to property dispute. The name of the present applicant has not been mentioned. He is dragged in this matter without any reason. Investigation is completed. The Charge-sheet is filed. Nothing remains to be recovered or discovered from him. He is not a habitual offender, needs to be released on bail. He is having old aged mother and he is the sole bread earner of his family. He is ready to face trial. He will not flee from law as he is having permanent place of residence in Mumbai so he be released on bail.

3. The prosecution, however, resisted the bail application by filing say at Exh.4. The Learned APP Smt.Geeta Malankar for State relied on the same and submitted that the offence is very serious in nature. The victim is very small. She is aged about 13 years only and she was sexually assaulted by the present applicant also by taking disadvantage of her situation. The accused if released on bail, he will come in contact with the victim, may commit same crime against her. He is the near relative of the victim girl. The victim is pregnant. The DNA report is awaited so it would not be just and proper to release him on bail.

4. Heard the sides at length.

5. Admittedly the offence is registered u/s.376(3), 377, 506 r/w.34 of IPC and u/s.4, 6, 8 and 10 of POCSO Act. I have perused the statement of the victim girl dated 14/03/20 recorded by the investigating authorities which is prima facie suggesting that the present applicant continuously assaulted the present victim girl by committing natural and unnatural sex

with her and thereafter he introduced her by using very filthy words with the other accused also. Other accused also sexually assaulted present victim girl who is actually aged 13 years as per the prosecution. The birth date of the victim as per the Aadhar card is 01/01/2007. The allegations made by the victim are corroborated by other witnesses also and the medical report of the victim and of the accused is in consistent with the prosecution case. The applicants are close relatives of the victim so there is every possibility that if he is released on bail, he will come in contact with the victim and may commit same crime with her so in all circumstances, the Court is of the view that if bail is granted to the accused, the safety of the victim aged 13 years old may come in danger so the Court is not inclined to grant bail to the accused.

6. In the above circumstances and for the reasons mentioned above, the Court proceeds to pass the following order :-

ORDER

Bail Application Exhibit-3 stands rejected and disposed of accordingly.

Date : 16.03.2021

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

Dictated on	: 16.03.2021
Transcribed on	: 17.03.2021
Checked and corrected on	: 26.03.2021
Signed on	: 30.03.2021
Sent to Dept. on	:

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

UPLOAD DATE

AND TIME : 30/03/2021 at 4.01 p.m.

Mrs. Vidya Pendharkar

NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ H.C.SHENDE (Court Room No.11)
Date of Pronouncement of Judgment/Order	16/03/2021
Judgment/Order signed by P.O. on	30/03/2021
Judgment/Order uploaded on	30/03/2021