

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 558 OF 2020

Rajebaksar Rajesab Pirjade	...Applicant
Vs.	
State of Maharashtra	...Respondent

Mr. Kuldeep Patil, Advocate for Applicant.
Mr. Arfan Sait, APP for the Respondent / State.

**CORAM : C.V. BHADANG, J.
DATE : 30th SEPTEMBER, 2020
(Through Video Conferencing)**

P.C.

. This is an application for bail. The applicant is facing prosecution for the offence punishable under Section 376(AB) of IPC and Section 3, 4, 5 and 8 of the Protection of Children from the Sexual Offences Act ('the POCSO Act' for short).

2. The prosecution case, as disclosed from the complaint of Shweta Palrecha and other prosecution witnesses including the victim girl, is that on 16/10/2019, the applicant who is working as a Carpenter, was called to the house of the complainant for some minor repairs / carpentering work. It is the material prosecution case that, at about 3.15 p.m., when the victim who is a girl, who at the relevant time was aged about 6 years and 11 months was playing with a ball in the house, she was sexually abused by the applicant by inserting his finger in the private part

of the victim. The victim went running to her mother i.e. the complainant who in turn informed the incident to the father of the victim. The father called the police and the applicant was arrested in the early hours of 17/10/2019 and is in custody since then. The perusal of the complaint shows that the applicant was taken away by the police from the house of the complainant.

3. I have heard the learned counsel for the applicant and the learned APP for the State.

4. It transpires during the course of hearing and from the perusal of the record that parents of the victim did not consent for gynecological examination of the victim, may be on account of her tender age. As a result thereof, there is no medical opinion in this case supporting the allegation. I am conscious of the fact that in such cases where the victim is of tender age, the parents / guardian may be hesitant in allowing for gynecological examination. However, in such cases, on one hand while appreciating the concern of the guardian / parents, the Court has also to look into the valuable rights of the accused. In this case, the investigation is complete and the chargesheet is filed. The applicant is stated to be sixty years of age and is in custody for about a year now.

5. Considering the over all circumstances, I find that the applicant can be released on bail, subject to conditions. Hence, the following order.

ORDER

1. The applicant be released on bail on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
2. The applicant shall undertake to remain present on the dates of hearing before the Special POCSO Court.
3. The applicant shall not directly or indirectly make any contact, influence or otherwise tamper with the prosecution evidence/ witnesses.
4. The Bail Bonds to be furnished before the learned Special POCSO Court.
5. The Criminal Application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.