

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

**BAIL APPLICATION NO.828 OF 2020**

Makrand Chandrakant Bapardekar ... Applicant

Vs

The State of Maharashtra ... Respondents

...  
Mr. Aniket U. Nikam i/by Mr.\ Vivek N. Arote for the  
Applicant.

Mrs. P.P.Shinde, APP for the Respondent-State.

**CORAM : SANDEEP K. SHINDE J.**

**DATE : 13TH JULY, 2020.**

**P.C. :**

*Heard Mr. Nikam, learned counsel for the  
applicant and Ms. Shinde, learned APP for the State.*

*2 Applicant seeks his enlargement on bail in  
connection with Crime No.480 of 2019 dated 14<sup>th</sup> August,  
2019 registered with Andheri Police Station for the offences  
punishable under Sections 354, 354A of the Indian Penal  
Code, 1860 and Sections 8, 9(n) and 10 of the Protection of  
Children From Sexual Offences Act, 2012 ("**POCSO**" for*

*short) .*

3           *It is complainant's case that after demise of her first husband, she got married to the applicant in June, 2013 and started residing at applicant's house with her daughters, Shamika and Toshida born from first marriage. Girl child, Manasvi was born on 11<sup>th</sup> June, 2019 from second marriage. It is alleged that due to recurring quarrels and harassment caused to her by the applicant, she left the matrimonial house in January, 2019 and started living at mother's house. That in April, 2019, daughter Toshida, narrated her ordeal of sexual abuse by her step-father (Applicant), which, she reported to Bhagwati Mahila Vikas Mandal vide complaint dated 10<sup>th</sup> February, 2019. Besides, she had also lodged two complaints with Andheri Police Station under Sections 504 and 506 of the IPC against the applicant.*

4           *It may be stated that in May, 2019, complainant instituted proceedings against the applicant under the Domestic Violence Act. Paragraph 26 of the complaint reads*

*as under:*

“Applicant states that the respondent used to insist her daughter Shamika (elder daughter from first marriage) to massage him on his person. She used to ask Toshida (younger daughter from first marriage) to sit on his lap and that he was doing so in front of the applicant though she protested illegalities committed by the respondent.”

*Though allegation of sexual abuse was reported in February, 2019 to Bhagwati Mahila Vikas Mandal and thereafter similar allegations were made in the complaint filed under the Domestic Violence Act, however, FIR was lodged in August, 2014, i.e., nearly after six months. In the interregnum, she had also filed two N.C.s in February, 2019 at Andheri Police Station but did not report alleged sexual abuses inflicted by the applicant on her daughter.*

5           *Be that as it may, after lodging complaint in August, 2019, applicant came to be arrested on 9<sup>th</sup> October, 2019. Investigation in this case is over and the charge-sheet has been filed.*

6            *The learned counsel for the applicant has taken me through the charge-sheet and in particular, the averments in the domestic violence complaint and the complaint to Bhagwati Mahila Vikas Mandal and would submit, that the subject FIR has been filed nearly after six months, to seek corroboration to averments/allegations in the domestic violence complaint, contained in paragraph 26 thereof. The learned counsel has also invited my attention to a letter addressed by Shamika (elder daughter of the complainant from first marriage) to the Senior Inspector of the Police wherein she had alleged attempts by her mother to push her in the prostitution. Mr. Nikam would, therefore, submit that, the complainant's version is suspicious, particularly, in view of her elder daughter's complaint to police, which has not been enquired into. He would further submit that investigation is over and trial may not commence in near future and by imposing suitable conditions, this Court can secure presence of the applicant. On these grounds, he seeks release of the applicant on bail.*

7            *After perusing relevant documents as pointed out and referred to hereinabove, in my view, a case is made out for releasing the applicant on bail. That even otherwise, investigation in the case is over. Offence punishable under Sections 354, 354A and Section 12 of the POCSO Act, may extend to 5 and 3 years respectively.*

8            *In the circumstances, application is allowed and hence, the following order:*

(I)            *The applicant is directed to be released in Crime No.480 of 2019 registered with Andheri Police Station on executing PR bond for the sum of Rs.30,000/- with one or more sureties in like sum.*

(ii)            *He shall furnish his permanent residential address and contact details to the Investigating Officer within seven days after the date of his release.*

(iii)            *The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.*

(iv) *In view of Covid-19 pandemic, if the applicant is unable to furnish sureties, he is directed to be released on cash bail in the sum of Rs.30,000/- which is purely an interim arrangement and shall remain in force for the period of three months.*

(v) *It is made clear that before expiry of three months, applicant shall furnish sureties as directed hereinabove.*

9 *The application is accordingly allowed and disposed of.*

10 *It is made clear that observations made here-in-above be construed as expression of opinion only for the purpose of granting bail and the same shall not in any way influence the trial in other proceedings.*

**(SANDEEP K. SHINDE, J.)**