

**Order Below Exh.1 in Cri.B.Appln. No.132/2022**

**CNR NO. MHNS010003222022**

Arjun Pundlik Dabhade Vs. State

**Heard :** Learned Adv. Mr. S. B. Jagtap for the applicant.  
Learned A.P.P. Ms. S. S. Sangle for the State.  
Perused the say of the victim.

1. This is an application under Section 439 of the Code of Criminal Procedure, 1973 in Crime No.3/2022 registered at Police Station, Nashik Road for the offence under Sections 354, 354-A, of the Indian Penal Code, 1860 and Section 8 & 12 of the Protection of Children from Sexual Offences Act. It is the case of prosecution in brief that the 59 years-old accused/applicant has a shop near the victim's house. The victim is only 14 years, 7 months old and has come to her aunt's house to Nashik for her studies. On the date of the incident, the accused asked the victim to come to his shop. He then held her hand, kissed her and pressed her breast.

2. Learned Advocate for the applicant has submitted that the applicant is almost a senior citizen and has been running his shop in the locality since the past several years. He has no criminal antecedents. The complaint is false. Applicant is ready to abide by the terms and conditions imposed by the Court. In order to buttress his contentions further, he has relied on an unreported order of the Hon'ble Bombay High Court dated 31<sup>st</sup> July, 2021 (in bail Application No. 492 of 2020 - **Jamaluddin Allauddin Qureshi V/s. The State of Maharashtra**) wherein bail was granted to the accused who had been in jail for almost two years.

3. Per contra, Ld. A.P.P. has vehemently opposed the bail application on the ground that investigation is in progress and charge-sheet is yet to be filed. Offence is serious in nature wherein a minor girl less than 15 years in age has been sexually assaulted by a 59 year-old neighbor. The citation in the case of Jamaluddin (Supra) is not applicable to the facts of the present case in as much as in the case of Jamaluddin (Supra), the offence was registered against an unknown person for inappropriately touching the posterior of a 15 year-old girl and the accused was behind bars for almost two years. However, in the case at hand, the allegations are more serious and the victim has clearly identified the accused and the FIR is lodged against him. Moreover, investigation is in progress and charge-sheet is yet to be filed. If the applicant is released on bail, there are chances of his tampering with prosecution witnesses (especially since the victim admittedly resides in the same vicinity).

4. The victim has strongly objected to granting bail to the accused.

5. Perusal of the case diary (including Section 164 Cr.P.C. statement of the victim) shows *prima-facie* case against the accused. Offence involves sexual assault on a minor girl less than 15 years in age by a 59 year-old neighbor. The citation in the case of Jamaluddin (Supra) is not applicable to the facts of the present case in as much as in the case of Jamaluddin (Supra), the offence was registered against an unknown person for inappropriately touching the posterior of a 15 year-old girl and the accused was behind bars for

almost two years. However, in the case at hand, the victim has clearly named the accused and the FIR is lodged against him. Also, in the case at hand, investigation is in progress and charge-sheet is yet to be filed. Apprehension of the Ld. A.P.P. that if the applicant is released on bail, there are chances of his tampering with prosecution witnesses (especially since the victim admittedly resides in the same vicinity as the applicant) is also well-founded. In view of the foregoing discussion, I am inclined to reject the bail application.

**ORDER**

Application stands rejected.

Nashik  
18/02/2022

Mridula Bhatia  
District Judge - 2 and  
Addl. Sessions Judge, Nashik.