

SQP

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 432 OF 2015**

Suraj @ Amit Krishnapal Tiwari	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms. Anjali Patil with Mr. Arun Rajput for the Applicant

Ms. P. P. Shinde, A.P.P. for the Respondent-State

**CORAM:- REVATI MOHITE DERE, J.
(IN CHAMBERS)
DATED :- AUGUST 11, 2015**

P.C.

1. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 531 of 2014 registered with the Wadala T. T. Police Station for the alleged offences punishable under Section 377 of the Indian Penal Code r/w Sections 4, 6 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. This is the second bail application preferred by the applicant. The first application was dismissed as withdrawn vide order dated 18th February, 2015. It has been recorded in the order dated 18th February, 2015 passed in Criminal Bail Application No. 2516 of 2014 that after arguing for

some time, the learned Counsel for the applicant seeks leave to withdraw the application.

3. Learned Counsel for the applicant states that the change of circumstance is that the applicant has been enlarged on bail in another similar case (C.R. No. 579 of 2014) by the learned Sessions Judge vide order dated 30th January, 2015. She further submitted that there is a discrepancy in the history given by the victim's mother i.e. the complainant and in the history given to the doctor of Sion Hospital. Learned A.P.P opposes the bail application. She contended that there is no change of circumstance. She submitted that the said order enlarging the applicant on bail was pointed out by her to the Court when the first bail application was withdrawn on 18th February, 2015.

4. Perused the charge-sheet. The incident in question has taken place on 22nd May, 2015. The complainant is the mother of the victim girl, aged three years. She has stated in the complaint/FIR that the incident in question has taken place some time in the afternoon on 22nd May, 2014 between 3:00 p.m. to 4:00 p.m. when she had gone out for domestic work.

She has stated that when she returned at about 12:15 p.m., her daughter was not at home and hence, she started searching for her. She has stated that she found her daughter after an hour, and that she was crying and shivering. She has stated that she disclosed to her that the present applicant had taken her to a secluded place, removed her knicker and had unnatural and oral sex with her. Accordingly, a complaint was lodged on the very same day by the victim's mother.

5. Perused the statement of the victim girl. The said statement which is recorded on 27th May, 2014 is consistent with the history given by the victim girl to her mother. A perusal of the medical papers also show that the victim had suffered three injuries. It was found that there was abrasion on the chin and abrasion on upper and lower lips and scratch/abrasion over hypogastrium. Local examination of the anal also showed erythema. The medical opinion given by the doctor also shows that the victim girl had given history of bleeding through anal and pain during defecation and also given history of oral sex, pain and induration in lower and upper lips.

6. Merely because the applicant has been enlarged on bail in another case, cannot be the ground to enlarge him on bail in the present case. The nature of allegations as against the applicant are serious. As noted earlier, the victim girl, at the relevant time, was only three years of age. Considering the material on record, the application is rejected.

7. It is made clear that the learned trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.