

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL BAIL APPLICATION NO.1419 OF 2015**

Mehmud Dastgir Khan

..Applicant.

versus

State of Maharashtra

..Respondent.

.....
Mr. Dhrutiman S. Joshi for the Applicant.Mrs. P.P. Shinde, Addl. P.P. for the State.
.....**CORAM : A.S. GADKARI, J.****17th August 2015.****P.C. :**

The Applicant is an accused in C.R. No.56 of 2014 registered at Trombay Police Station, Mumbai under Sections 376, 363 and 366 of the Indian Penal Code and under Section 4 of the Protection of Children from Sexual Offences Act 2012. The victim girl is aged about four years and her name is concealed with a view to protect her identity. This being done in conformity with the provisions of Section 228-A of the Indian Penal Code.

2. The facts narrated in the First Information Report need not be reproduced here in-verbatim, however, as per the statement of the first informant, the mother of the victim girl and the statement of the victim girl, dated 15th March, 2014, the Applicant lured the victim and took her behind a deserted bungalow near an old public toilet and sexually assaulted her. The passers-by noticed it and apprehended the

Applicant on the spot. One resident from the locality viz. Mohammed Ayub Noor Mohammed Shaikh who identified the said victim girl took her to her residence and informed her mother about the incident. The mother of the victim took her into confidence and enquired with her about it, when the victim narrated the incident to her mother. The mother of the victim thereafter lodged the First Information Report with the police. The Applicant herein was thereafter handed over to the police by the people.

3. The learned counsel for the Applicant submits that the said witness i.e. Mohammed Ayub Noor Mohammed Shaikh, who first saw the Applicant indulged into the said act is on enemical terms with the Applicant and is having rivalry against him. He further submitted that the Applicant has been falsely implicated in the present case. It may be noted here that the defence of the Applicant need not be tested at this juncture and the Applicant is at liberty to establish his defence at the time of trial. He further submitted that the Applicant is languishing in jail for last more than a year and if released on bail, the Applicant will abide by all the terms and conditions specified by this Court.

4. The learned APP on the other hand submitted that the present case demonstrates the perversity involved in the crime at the behest of the Applicant. She further submitted that the Applicant was caught on the spot by the people from the locality who saw him sexually

assaulting the victim girl. The learned APP therefore submitted that if the Applicant is released on bail, there is every possibility that he may tamper with the evidence and may indulge into threatening the witnesses in the crime. She therefore prayed that the Bail Application may be rejected.

5. A bare perusal of the statement of the victim girl who is aged about four years, discloses the heinousness involved in the present crime. The victim girl was immediately taken by the witness to her mother who after taking into confidence the victim girl enquired with her. The victim girl narrated the facts of the present crime to her mother and thereafter the First Information Report has been lodged. The statement of the mother of the victim, the first informant inter alia corroborates with the the statement of the victim girl. The Applicant was apprehended on the spot by the passers-by from the vicinity. This being a crime against an innocent victim girl aged about four years, I am not inclined to grant bail to the Applicant.

The Bail Application is hereby rejected.

(A.S. Gadkari, J.)