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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2267 OF 2015

Mannan Shahdad Khan

..Applicant.

Vs.

The State of Maharashtra

..Respondent

Mr. Javed Ahamed for Applicant.

Ms. M.H. Mhatre, APP for the State.

CORAM: A.S. GADKARI, J.

DATE : 20th November 2015.

P.C.

- 1 Heard the learned Counsel for the applicant.
- 2 The applicant is seeking bail in CR No.399 of 2013 registered with M.H.B. Colony Police station, Mumbai under Sections 376 and 342 of the Indian Penal Code. The first information report has been lodged by the neighbour of the victim on 31.12.2013. The victim immediately after suffering sexual assault at the behest of the applicant narrated the fact to the first informant. The statement of the victim is also recorded. The victim in her statement has in detailed stated about the incident which occurred on 31.12.2013 at about 1.00 p.m. The victim was working in the shop of the

applicant. Her statement was recorded on the same day and the criminal law was set into motion. After completion of the investigation, the police have filed chargesheet.

3 The learned Counsel for the applicant submits that though the victim was deaf and used to speak in the language of signs, it was not possible for her to give statement to the police. He further contended that her statement in question and answer form has been recorded in the presence of expert on 6.1.2014 wherein she has not stated the name of the applicant. The perusal of the statement of the victim recorded by the police discloses that the specific name and the role of the applicant in the commission of the present crime. The statement recorded by the expert dated 9.1.2014 also mentions that the victim had disclosed the said fact to the lady police officer. The learned Counsel for the applicant submits that the said act was by consent and therefore the applicant deserves to be released on bail.

4 I have perused the record available before me and in my prima facie opinion the applicant has committed the said crime and there is no reason to disbelieve the statement of the victim lady at this stage. It is the settled position of law that the conviction can be based solely on the basis of the statement of the prosecutrix provided it is found to be truthful and

reliable. The victim was working in the shop of the applicant. The applicant by taking undue advantage of the situation has committed the present crime. The statement of victim prima facie inspires confidence in the mind on Court. In view of the above, I am not inclined to grant bail to the applicant. The application is dismissed.

(A.S. GADKARI,J.)