

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2312 OF 2015

|                             |              |
|-----------------------------|--------------|
| Akbar Ali Arif Khan         | ..Applicant  |
| -Versus-                    |              |
| State of Maharashtra & Anr. | ..Respondent |

Mr. Sushil Gaglani for applicant  
Ms. Rutuja Ambekar, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 14<sup>th</sup> December 2015

P.C.

1] The applicant is seeking bail in C.R.No.35 of 2013 dated 17<sup>th</sup> January 2015 under sections 354, 354(A), 354(B), 342, 506, 34 IPC, registered with Malwani police station. The F.I.R. has been registered by Smt. Manjusha Shirsat, Woman Sub-Inspector attached to the said police station for and on behalf of the complainant/ victim, who at the relevant time was aged about 14 years.

2] With a view to conceal identity of the victim and in pursuance of the Mandate of section 228 A of the IPC., the material description of the victim and/or the incident is hereby avoided. Suffice it to say

that on the basis of the information given by the victim girl to the aforesaid woman police sub-inspector, the F.I.R. has been lodged on 17<sup>th</sup> January 2015. The complainant while narrating the statement of the victim girl has attributed a specific role to the applicant. In my considered opinion, the act committed by the applicant falls within the purview of section 7 of Protection of Children from Sexual Offences Act, (POCSO) and, therefore, investigating agency has now applied section 8 of the Act to the said crime.

3] Learned Counsel for the applicant submitted that now the charge sheet has been filed and no purpose will be served by keeping the applicant behind bars.

4] A bare reading of the FIR discloses that the applicant met the victim girl on 13<sup>th</sup> January 2015 at about 4.00 p.m. and took her with him and released her from his custody and/or unlawful detention only on 14<sup>th</sup> January 2015 at 9.00 a.m. As stated above, age of the victim is about 14 years. After taking into consideration the ordeal suffered by the victim girl, it will not be proper to release the applicant on bail as there is every possibility of tampering of the witnesses by the applicant. If the applicant is granted bail,

according to me, the basic intention of the Legislature in enacting section 7 read with section 8 and other sections of POCSO Act would be frustrated. Thus, after reading the FIR and other evidence on record, I am of the considered opinion that the applicant does not deserve any sympathy of being released on bail.

5] The learned Counsel for the applicant submitted that Section 354(B) prescribed a maximum punishment of seven years and the applicant is behind bars since 18<sup>th</sup> January 2015 and the maximum sentence prescribed is 7 years. In these circumstances, he submitted that the trial of the applicant may be expedited.

5] Taking into consideration the fact that the applicant is in jail since 18<sup>th</sup> January 2015, the trial court is hereby directed to expedite the trial and conclude the same within a period of six months from the date of receipt of this order.

6] The application is rejected in the aforesaid terms.

(A.S.GADKARI, J)