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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 443 OF 2016**

Madhukar Tukaram Surve

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Anand S. Patil, for the Applicant

Mr.Y.M.Nakhwa, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 5th APRIL, 2016

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 89 of 2015, registered with the Panhala Police Station, Kolhapur, for the alleged offences punishable under Section 302 of the Indian Penal Code.
3. Learned Counsel for the Applicant contended that the prosecution case rests entirely on circumstantial evidence and there are no

circumstances on record to show the complicity of the applicant. He submitted that the statements of Akash Surve and Indubai Surve under Section 161 were recorded after the arrest of the applicant i.e. after more than 17 days. He submitted that the statements of Akash Surve and Indubai Surve have also been recorded under Section 164 of the Code of Criminal Procedure and in the said statements they have stated that they did not know who the lady was and that they had only seen the present applicant going on that road after 2 hours. He submitted that there is a certificate issued by Akash Surve's school stating therein, that Akash Surve was in School on 22nd July, 2015 from 10.00 a.m. to 6.00 p.m.

4. Learned APP submits that the trial has commenced and that till date one witness has been examined in the said case. Learned Counsel for the applicant states that the Applicant is ready to abide by any of the conditions which may be imposed and that he shall attend the concerned Court on every date of the hearing.

5. Perused the charge-sheet, in particular the statements of Akash and Indubai Surve recorded under Sections 161 as well as 164 of the Code

of Criminal Procedure. Apart from the said statements there is no material pointed out by the learned APP to show the complicity of the applicant.

6. Considering the material as against the applicant, the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.10,000/- with one or two sureties in the like amount;
- (ii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iv) The Applicant shall co-operate in the conduct of the trial and shall attend the concerned Court on every date of the hearing ;

(v) An undertaking to the aforesaid clauses ii) to iv), shall be filed by the Applicant, in the Trial Court, within one week of his release;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.