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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.198 OF 2016**

Manoj Jaibhim Chahande ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr.Niranjan Mundargi, for the Applicant

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

***CORAM : REVATI MOHITE DERE, J.
DATE : 6th MAY, 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. 54 of 2015, registered with the Surgana Police Station, Nashik for the alleged offences punishable under Sections 376(2) (F), 342 of the Indian Penal Code and under Section 4 of Protection of Children from Sexual Offences Act.
3. The incident in question has taken place on 21st August, 2015

at about 10.00 a.m., when the prosecutrix aged 6 years had been to her school. The applicant who was a teacher in the said school is alleged to have called the prosecutrix in a room during lunch/recess at 1.00 p.m. and asked her to close the windows. It is further alleged that the applicant removed her undergarment and committed sexual intercourse with the prosecutrix. It is alleged that when the prosecutrix starting crying loudly the applicant let her go. Thereafter, the said incident was informed by the prosecutrix to her mother, pursuant to which, the aforesaid complaint came to be lodged by the mother of the prosecutrix.

4. Learned Counsel for the Applicant submitted that the complaint lodged by the mother of the prosecutrix is contrary to the statement of the prosecutrix. He relied on the statement of the prosecutrix, which is on page 38 of the application. In the said statement, the prosecutrix has stated that the applicant took her to the room, shut the door and windows, removed her undergarment and as she started to cry, he let her go. He submitted that the said statement of the prosecutrix is consistent with the medical report, which is from page nos.30 to 32 of the application.

5. Learned APP opposed the bail application. He submitted that the statement of the complainant, who is the mother of the prosecutrix shows that the applicant, a teacher had committed sexual assault on the prosecutrix.

6. Perused the papers, more particularly the statement of the prosecutrix and the medical report. Prima-facie, the statement does not disclose that the applicant had sexually assaulted the prosecutrix. The medical report shows that there are no injuries to the external genitalis and that there were no external injuries, no scratch, bruising, tear and that the hymen was intact. The clinical opinion which was given is that the findings are not consistent with recent of sexual intercourse/assault. It also appears, that the applicant has been transferred from the school i.e. from Surgana to Mokpada.

7. Considering the aforesaid, 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.15,000/- with one or two sureties in the like amount;

(ii) The applicant shall attend the Surgana Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m., initially for a period of 12 months and thereafter on the first Saturday of every alternate month between 10:00 a.m. to 11:00 a.m;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) 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;

(v) The applicant shall not enter the jurisdiction of Surgana Police Station, except for the purpose of attending the Police Station;

- (vi) The applicant to cooperate with the conduct of the trial;
 - (vii) An undertaking to the aforesaid clauses (ii) to (vi) shall be filed by the Applicant, in the Trial Court, within two weeks after his release.
8. The Application is allowed in the aforesaid terms and is accordingly disposed of.
9. 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.
10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.