

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 366 OF 2016

Subhan Mohd. Vakil Khan.

...Applicant.

vs.

The State of Maharashtra.

...Respondent.

Mr.S.G.Rajput for the Applicant.

Sm.PPShinde, APP. for the State.

CORAM : A.S.GADKARI, J.

DATE : 26th February, 2016

P.C.

The applicant is apprehending arrest in CR No.443/2015 dated 8.9.2015 registered with Wadala T.T. Police Station under Sections 376, 324, 141,143, 144, 149 of the Indian Penal Code and Section 4,8,10 and 12 of the POCSO Act.

2) The first information report is lodged by the grand mother of the victim minor girl. The said victim minor girl was aged about 3 years at the time of the incident. With a view to protect the identity of the minor girl, the name of the victim and the detailed description of the incident is hereby avoided. Suffice it to say that, after the commission of the offence by the applicant and other co accused, the said minor victim girl had informed the said fact immediately to her grand mother, the complainant herein. The grand mother thereafter along with victim minor girl went to the place of incident where the applicant and other accused persons were chitchatting. The victim girl pointed out her finger towards the applicant and others as the persons who sexually assaulted her. When the complainant questioned about the incident, the applicant and other persons pushed the complainant and ran away. The other co accused came at the spot and assaulted the complainant and her husband with

Bamboo sticks. The record discloses that the statement of the minor victim girl was recorded by a lady police officer, then attached to Sion Police Station, Mumbai in presence of the aunt of the said victim girl wherein the said victim girl has narrated the sexual assault committed by the accused persons on her. The record further discloses that the statement of the minor victim girl was thereafter recorded by Metropolitan Magistrate, 15th Court, Mazgaon, Mumbai under Section 164 of the Cr.P.C. The said minor victim girl inter alia has reiterated the facts which she had narrated in her earlier statement before the police. It appears to me that there is consistency in both the statements as far as the actual assault is concerned. It is further to be noted here that when the complainant-grand mother of the victim girl took her at the spot of incident the applicant along with other accused persons was present there and the said minor victim girl had pointed out her finger to the applicant and other accused persons immediately after the said assault thereby establishing the identity of the applicant in the present crime.

3) After taking into consideration the serious allegations against the applicant and the fact that the applicant has alleged to have committed the sexual assault as contemplated under the provisions of POCSO Act, in my opinion, this is not a fit case for grant of pre arrest bail to the applicant. Application is rejected.

(A.S. GADKARI, J.)