

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE**

BAIL APPLICATION NO.1140 OF 2016

Janardan Jagannath Amberkar ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

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Mrs.Anjali Patil with Arun Rajput, Advocate for the Applicant.

Mrs.Rutuja Ambekar, APP for the Respondent/State.

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CORAM : P. N. DESHMUKH J.

DATED : 15th JUNE 2016.

P.C.

1. Accused involved in Crime No.330 of 2015 registered for the offences punishable under Sections 376 of the Indian Penal Code and Section 4,8,10 and 12 of the Protection of Children from Sexual Offences Act, 2012 (In Short, “the POCSO Act”), has filed this application for grant of bail.

2. Two applications moved by the accused before the trial Court are rejected on merits. The learned counsel for the applicant has contended that from the contents of report no provision of Section 376 of the Indian Penal Code nor Sections 8 and 4 of the POCSO Act is attracted, and it is further contended that the prosecutrix has falsely implicated the applicant as he was insisting her not meet girl by name 'Khushbu', as she used to wander in the locality in the night hours.

3. The learned Additional Public Prosecutor, on instructions, has submitted that after the incident the victim girl is in Children's Home, where wife of accused is regularly visiting her and insisting her to withdraw the case. It is also contended that police have written to the Authority of C.W.C. not to allow wife of accused to meet the victim.

4. I have perused the medical report according to which hymen was found to be intact, and thus penetrative sexual intercourse has been ruled out. However, it is material to note that Section 10 of the POCSO Act can be attracted in the present case. It may attract the attempt to commit offence. Having considering the age of prosecutrix about 10 years of old, and who after the demise of her parent was relying upon the accused, and was staying in their home, and also considering the fact that the applicant, who at the time of incident was serving as police constable at Borivali Police Station, the application is liable to be rejected.

5. The learned counsel for the applicant, however, submits that trial Court could be directed to decide the case expeditiously. Today, in one of the bail application, this Court has noted that trials in respect of charge sheets filed before the Sessions Court of the year 2013 and 2014 are now fixed for evidence. Charge sheet in the present crime is filed on 14/03/2016.

6. In that view of the mater, no such directions to expedite the trial are issued. However, liberty is granted to applicant to move this Court for bail afresh, if the trial is not commenced within one year from today.

(P. N. DESHMUKH J.)