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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1417 OF 2016

Parvesh Niyaz Hashmi ..Applicant.

Vs

The State of Maharashtra ..Respondent.

Mr A.P. Mundargi, Senior Advocate for the applicant.  
Smt. Rutuja Ambekar, APP for the State.

CORAM : A.S.GADKARI, J.

DATE : 4<sup>th</sup> October, 2016

P.C.

(1) This is an application under section 439 of the Code of Criminal Procedure, 1973 for bail by the applicant in C.R. No. I-78 of 2016 dated 4/2/2016 registered with Kashimira Police Station, Thane under sections 376 of the Indian Penal Code and section 4 of the Protection of Children from Sexual Offences Act, 2012.

(2) Heard the learned counsel for the applicant, the learned APP and also perused the copy of the charge-sheet annexed to the present application.

(3) The first information report is lodged by the mother of the victim girl about aged 4 years against her husband and father of the victim girl. With a view to

protect the identity of the minor victim girl and in consonance with the provisions of Section 228 (A) of the IPC, the name of the victim and the detailed narration of facts mentioned in the first information report and/or in the statement of the material witnesses including the victim girl is hereby avoided. Suffice it to say that on the basis of the first information report lodged by the mother of the victim girl the present crime is registered.

(4) During the course of investigation, the police collected the medical reports. The police have also recorded the statement of the victim girl, in the presence of a lady police officer, the mother of the victim girl and a member of the Mahila Dakshata Samiti for the said locality. After completion of investigation the police have submitted the charge-sheet.

(5) After reading the statements of the witnesses annexed to the charge-sheet it prima facie appears that there was difference of opinion and/or disputes between the first informant i.e. the wife of the applicant and the applicant. That it is the allegation against the applicant that from

19/1/2015 to 26/1/2015, the applicant used to fetch the victim girl from the mother of the first informant. On 3/2/2016 the teacher (witness) of the victim girl noticed that the said victim is not behaving normally and therefore she enquired with the victim girl. The victim girl told her teacher that some object has fallen on her leg and therefore it is paining. The first informant has subsequently stated that on 3/2/2016 the victim for the first time confided with her and informed her about the act committed by the applicant as contemplated under section 375 (b) of the IPC. It prima facie appears from the record that the medical evidence is totally silent for any act as alleged against the applicant. It further prima facie appears from the record that, there is dispute between the husband and wife and the minor child was used to act as a puppet of the informant and the said victim girl was tutored to give a statement in a particular manner. The applicant is arrested on 4/2/2016 and since then he is in jail. The police have already submitted charge-sheet.

6) In view of the peculiar facts and circumstances of the

present case, the applicant has made out a case for his release on bail.

Hence, the following order :-

ORDER:-

- a) The applicant shall be released on bail in CR No. I-78 of 2016 registered with Kashimra Police Station, Thane on his furnishing a PR. bond of Rs.25,000/- with one or two solvent local sureties in the like amount;
- b) After his release from jail, the applicant shall attend Kashimra Police Station, Thane on every first Monday of the month, between 11:00 a.m. to 2:00 p.m. till the conclusion of the trial;
- c) The applicant shall also attend all the dates before the trial Court;
- d) Any two consecutive defaults in complying with the aforesaid conditions, shall attract the provisions of cancellation of bail;
- e) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses;

The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)