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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1421 OF 2016

Vipin Hariprasad Shukla ..Applicant.
Vs
The State of Maharashtra ..Respondent.

Mr S.A.Waskar, Advocate for the applicant.
Ms S.S.Kaushik, APP for the State.
PSI Nana S. Wankhede, Goregaon, PS.

CORAM : A.S.GADKARI, J.
DATE :7th September, 2016.

P.C.

1) This is an application under section 439 of the Code of Criminal Procedure, 1973 for bail in C.R. No. 42/2016 dated 27/1/2016 registered with Goregaon Police Station, Mumbai under section 376 (1) of the Indian Penal Code and under section 4 of the Protection of Children from Sexual Offences Act, 2012.

2) 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 victim girl are hereby avoided. Suffice it to say that on the basis

of the first information report dated 27/1/2016 the aforestated crime came to be registered against the applicant.

3) That during the course of investigation, the applicant came to be arrested on 27/1/2016. The date of alleged incident is the intervening night between 31/12/2015 to 1/1/2016. It is the prosecution case that the prosecutrix had been to her friend's house for celebrating the new year party. At about 00:30 hours (12:30 a.m.) her friend gave her a glass of Pepsi coldrink. The said coldrink was very bitter in taste. After consuming the said coldrink she kept the glass on the table and went to dance. After dancing for sometime she again came near the table and consumed one more glass of Pepsi which was also bitter in taste. She subsequently went to sleep in the room belonging to her friend. It is further alleged at about 5 o' clock in the morning the applicant committed the act as contemplated under section 376 of the IPC. After completion of the investigation, the police have submitted the charge-sheet.

4) Heard the learned counsel for the applicant and the learned APP and I have also perused the entire charge-

sheet annexed to the present application.

5) It is to be noted here that the alleged incident occurred in the intervening period between 31/12/2015 to 1/1/2016. The first information report is lodged on 27/1/2016 and the medical examination of the victim girl was conducted on the same day. The witness namely Smt. Bhakti Pujari in her statement has stated that in the room where the alleged offence has taken place, her niece was also sleeping. That the prosecutrix and her niece were sleeping in the bed room till about 8:00 a.m. on 1/1/2016 and the applicant left the said premises early in the morning.

6) After scrutinising the statements of witnesses available on record, prima facie it appears that there are material contradictions in the statements of the mother of the prosecutrix Smt.Nirmala Ale and Smt.Bhakti Pujari. The applicant is arrested on 27/1/2016 and since then he is in jail. There are no antecedents at the discredit of the applicant. In view of the above, the applicant has made out a case for his release on bail.

Hence, the following order :-

- a) The applicant be released on bail in CR No. 42 of 2016 registered with Goregaon Police Station, Mumbai now culminated in Special Case No.113 of 2016 on his furnishing a P.R. 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 the Goregaon Police Station, Mumbai once in three months i.e. on every first Monday of the said 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 will attract the provisions of cancellation of bail;
- e) The applicant shall not tamper with the evidence and/or influence the witnesses;
- f) The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)