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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO.2047 OF 2015**

Saddam @ Chotu Mustafa Shaikh

..Applicant.

Vs.

The State of Maharashtra

..Respondent

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Ms. Farhana Shah, Appointed Advocate for the applicant.

Ms. J.S. Lohakare, APP for State.

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**CORAM: A.S. GADKARI, J.**

**DATE : 26<sup>th</sup> September 2016.**

**P.C.**

**1** This is an application under Section 439 of Cr. P.C. for bail in CR No.I-99 of 2015 registered with Boisar Police Station, Distict-Palghar dated 28.5.2015 under Sections 376(2)(f) of the Indian Penal Code and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

**2** The first information report is lodged by the mother of the victim girl. The victim girl was aged about 14 years on the date of commission of present offence. With a view to protect the identity of the

victim girl and in consonance with the provisions of Section 228(A) of the Indian Penal Code, the detailed facts mentioned in the present application, the first information report and in the statement of the victim girl are 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 for aforestated offence is registered. The prosecution case in brief is that, the applicant being the cousin uncle of the victim girl by taking undue advantage of the situation has committed aforestated offence. After lodgment of the first information report, the statement of the victim girl is recorded by the police. The statement of the victim girl under Section 164(1) of Cr. P.C. has also been recorded before the 3<sup>rd</sup> Judicial Magistrate First Class, Palghar on 11.6.2015.

**3** A bare perusal of the first information report and the statement of the victim girl recorded under Section 164(1) of Cr. P.C., clearly makes out a case as contemplated under the various sections charged against the applicant as mentioned hereinabove. It is to be noted here that the applicant is the cousin uncle of the victim girl. As stated earlier, by taking undue advantage of the situation, the applicant has committed the present offence. The applicant was having fiduciary relationship with the victim girl. Though the applicant has raised a plea that he intend to marry the victim

girl and an affidavit to that effect is on record, at this stage the same cannot be accepted. After taking into consideration the relationship between the applicant and the victim girl, the serious allegations against the applicant and the gravity of offence, in view of this Court, this is not a fit case to release the applicant on bail. The application is accordingly rejected.

4           The learned counsel for the applicant submitted that the applicant is arrested on 28.5.2015 and since then he is in jail. In view of the same, the Trial Court seized of trial arising out of CR No.I-99 of 2015 registered with Boisar Police Station, Distict-Palghar is hereby requested to expedite the trial.

5           Application is dismissed in the aforesaid terms.

6           The Registry to communicate the Order to the applicant who is lodged in Thane Central Prison.

**(A.S. GADKARI,J.)**