

CRIMINAL BAIL APPLICATION NO. 2429 OF 2016

Indian Penal Code and section 3 and 4 of the Protection of Children from Sexual Offences Act, 2012.

3 It is the case of the prosecution that on 6/2/2016 Shahanara Khan lodged a report at the police station alleging therein that she has two daughters namely, Simran and the victim Ms. X, who happens to be 6 years old. On the day of the incident, the minor girl was found missing. Her sister Simran was searching for her. While searching, she found the sandals of her younger sister just outside the house of the present applicant and therefore, she alongwith Neeta Tayade peeped into the house and saw that the applicant was in fact, ravishing the minor girl, who was 6 years old. She was fully denuded of her clothes. Upon enquiry by the parents, the minor girl had disclosed about the heinous act of the present applicant.

4 The learned Counsel for the applicant submits that the statement of the victim has been recorded and she only has referred to one boy. The statements of the witnesses namely, Simran and

Neeta are also recorded under section 164 of the Code of Criminal Procedure, 1973 and they have not named the present applicant. According to the learned Counsel for the applicant, test identification parade has not been held and that the averments in the statements under section 164 of the Code of Criminal Procedure, 1973 should be explicit.

5 The Court cannot be oblivious of the fact that the applicant happens to be the neighbour of the victim. There was no reason for false implication. Simran and Neeta happens to be the eye witnesses to the incident. The only lacuna is that they have not named the applicant. Identification in the court would be a piece of substantive evidence. Hence, the said submission would not hold any good ground. In view of this, the applicant does deserve to be enlarged on bail.

6 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application

under section 439 of the Code of Criminal Procedure, 1973. The learned Special Judge shall not be influenced by the same at the time of trial.

7 The application being sans merits stands rejected and disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)