

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
**CRIMINAL BAIL APPLICATION NO. 44 OF 2017**

|                          |     |            |
|--------------------------|-----|------------|
| Vijay Srinivas Ubidi     | ... | Applicant  |
| vs.                      |     |            |
| The State of Maharashtra | ... | Respondent |

Mr. Tariq Khan, for the applicant.  
Ms. P.P.Shinde, APP, for the State.  
Mr. Dhebe, PSI, Antop Hill Police Station, Mumbai, present.

**CORAM : SMT. SADHANA S.JADHAV,J.**  
**DATE : 10<sup>th</sup> January, 2017.**

**P.C.**

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 25.7.2016 in Crime No.241 of 2015 registered at Antop Hill Police Station. The investigation is completed and charge sheet is filed under Section 376 sub-clause (2) (i) of the Indian Penal Code and Section 5 read with Section 6 of the Protection of Children from Sexual Offences Act.

2. It the case of the prosecution that on 25.7.2015, Sangeeta Yadav lodged a report at the police station alleging therein that the present applicant was staying as a neighbour. He had outraged the modesty of her minor daughter who is hardly 9 years old and that when he was about to ravish her, the victim's brother came on the spot on the nick of time and saved the minor girl. The medical history is on record and it clearly indicates as follows :-

*“According to the victim & her mother,  
the victim was washing clothes near the front door  
of her house at around 12 p.m. on 24.7.2015.*

*When the accused Vijay aged around 18 yrs. lifted the victim & tried to remove her inner coat. He pulls down her half pant & tried to penetrate his penis into her vagina, but at that very moment, she shouted for help. Her brother who was outside rushed to help her, she bit the accused. No penetration was done according to victim & mother. The accused then tried to bribe her brother by giving her Rs.100 & asked him not to tell about the incident to the mother. He then went away from home there. In the evening the brother Nagraj told his mother about the incident who then proceeded to lodge a complaint in police station.”*

It appears that soon thereafter the applicant had tried to win over the brother of the victim so that the incident is not disclosed to the mother of the victim.

2. It appears that there was no documentary evidence in respect of the age of the accused and that he had claimed to be a juvenile in conflict with law. The application seeking ossification test filed by the applicant was allowed by the learned Magistrate. He had undergone ossification test and the result was that he was between 17 to 18 years old. As per the amendment dated 31<sup>st</sup> December, 2016, juveniles who are in conflict with law and are involved in serious offences, such as rape and murder do not get benefit of claiming juvenality. hence, the applicant is being tried as a major.

3. Taking into consideration the facts in this case, the role attributed to the applicant, the age of the victim and the conduct

of the victim, this Court is not inclined to grant bail.

The application being sans merits, stands rejected.

**(SMT.SADHANA S.JADHAV,J.)**