

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION*

CRIMINAL BAIL APPLICATION NO.333 OF 2017

Fahad Shakil Mohammad Siddiqui

..Applicant

Vs

The State of Maharashtra

.. Respondent

Mr. Abad H. Ponda i/b. Milan A Hebballi for the Applicant.

Mr. Arfan Sait, APP for State.

Mr. Mali – API, Tardeo Police Station.

CORAM : A. S. GADKARI, J.

Date : 10 APRIL 2017.

P.C. :

1. This is an application under section 439 of Cr.P.C. for bail in C.R. No. 219/2016 dated 25th August 2016, registered with Tardeo Police Station under section 376 of I.P.C. along with Sections 4, 6, 8, 10 and 12 of the Protection of Children from Sexual Offence Act, 2012 (POCSO).

2. The first information report is lodged by the victim girl aged about 18 years herself. It is alleged that the applicant and the victim girl were studying in the same school and were knowing each other. Their friendship blossomed into a relationship. It is the allegation of the prosecution that from February 2015 to 8th July 2016, the applicant had physical relationship with the victim girl at

various places. That the applicant under the promise of marriage had established the said relationships. The applicant subsequently resailed from his promise and therefore the present crime is registered. During the course of the investigation, the applicant is arrested on 21st November 2016. After completion of investigation the police have submitted charge sheet.

3. I have perused the charge sheet. The record reveals that in February 2015, the victim girl had completed 17 years of age. Smt. Nasreen Mushtaq Patel, the mother of the victim girl was aware of the said affair and in fact she had been to the house of the applicant and met his parents. The parents of the applicant had assured the mother of the victim girl that after the victim girl attains the age of majority, they will perform the marriage of the applicant and her daughter. It further appears from the statement of the mother of the victim girl that she was subsequently informed by the parents of the applicant that the marriage of the applicant has been fixed with some other girl. However, they assured that the same will be broken and the applicant will marry with the victim girl. It is to be noted here that on the first date of alleged incident as contemplated under section 376 of the IPC i.e. in the month of February 2015, the applicant was 17 years of the age. Victim girl had attained the age of understanding and at her own will she had entered into the relationship with the applicant. The learned counsel for the applicant has placed reliance on the decision of this court in the case of *Sunil Mahadev Patil Vs. State of Maharashtra in Bail Application No. 1036 of 2015*, dated

3rd August 2015 and in particular para No. 11 of the said judgment. This court after taking into consideration the social and biological factors has laid down certain para-meters for considering the application for bail, in similar type of facts and circumstances, which are involved in the present application. The applicant was aged about 18 years on the date of first incident. As stated earlier, the first information report and other statements of the witnesses would reveal that the applicant was having affair with the victim girl and it is only after the breach of promise of marriage, the present crime is registered. The applicant is aged about 20 years as of today and is in jail since 21st November 2016. No fruitful purpose will be served by further keeping the applicant in judicial custody.

4. In view of the facts and circumstances of the present case, I am inclined to release the applicant on bail.

5. Hence the following order:

- (i) The applicant be released on bail in C.R. No. 219/2016 dated 25th August 2016, registered with Tardeo Police Station Mumbai, on his furnishing PR bond Rs.25,000/- with one or two solvent local sureties in the like amount.
- (ii) The applicant shall attend all the dates before the Trial Court.

(iii) The Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

(iv) The Application is allowed in the aforesaid terms.

(A. S. GADKARI, J.)