

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 502 OF 2017**

Avishaikh Kaniya Bhattacharya	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. Gaurav Parkar for the Applicant

Mr. Sooraj S. Hulke, A.P.P for the Respondent-State

Mr. R. N. Raje, API from Poynad Police Station is present.

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 4th APRIL, 2017

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-105 of 2016 registered with the Poynad Police Station, for the alleged offences punishable under Sections 304, 325, 323, 506 and 354 (D) of the Indian Penal Code ('IPC') and Section 7 of the Protection of Children from Sexual Offences ('POCSO') Act.

3. According to the complainant, who is the daughter of the deceased, the incident took place on 14th November, 2016 at around 6:30 p.m. She has alleged that the applicant assaulted her father on his face with fist blows, pursuant to which, her father fell on the ground and injured his head and became unconscious. On 18th November, 2016, the complainant's father succumbed to his injury. It appears that initially on 15th November, 2016, an FIR was lodged as against the applicant, alleging offences punishable under Sections 325 and 506 of the IPC. On 20th November, 2016, other Sections i.e. Section 354(D) of the IPC and Section 7 of the POCSO Act also came to be added alongwith Section 304 of the IPC. It is alleged that the applicant had asked the complainant to marry him.

4. Perused the papers. The allegation against the applicant is that he gave fist blow on the complainant's father's face, pursuant to which, the complainant's father fell down and sustained an injury and became unconscious. There are two eye-witnesses to the incident, who have also stated that the applicant only gave a fist blow on the face, as a result of which, the complainant's father fell on the ground and became

unconscious. As far as allegation of 354(D) of the IPC and Section 7 of the POCSO Act are concerned, no details have been set out in the complaint. Only in the supplementary statement dated 24th November, 2016, the complainant has stated that the applicant was asking her to marry him. This is the only allegation. The applicant has been in custody since 19th November, 2016.

5. Considering the material on record, the applicant deserves to be enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Monday of every month from 10:00 a.m. to 11:00 a.m. till the conclusion of trial;
- (iii) The applicant shall not enter the jurisdiction of Poynad Police Station, except for the purpose of attendance;

(iv) The applicant shall not tamper the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The applicant shall not leave the Country without the prior permission of the trial Court;

(vi) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vii) The applicant shall cooperate with the conduct of the trial;

(viii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.
7. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.