

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

CRIMINAL BAIL APPLICATION NO. 510 OF 2017

Vishal Sanjay Gaikwad

...Applicant

Versus

State of Maharashtra

...Respondent

Ms. Anjali Patil for the applicant.

Ms. A. A. Takalkar, APP for the respondent – State.

Mr. B. H. Shirke (W.P.S.I.) Byculla Police Station present.

CORAM : PRAKASH D. NAIK, J.

DATE : 07 JUNE 2017

P.C. :

1. This is an application for bail in connection with C.R. No.345 of 2016 registered with Byculla Police Station for the offences under Sections 376 and 506(2) of the IPC and Sections 6 and 10 of the POCSO Act.

2. The First Information report was lodged by the survivor on 22 November, 2016. She is aged about 17 years. It is alleged that the applicant / accused is the cousin of the victim. He was residing in the nearby vicinity and he used to visit the house in premises where the complainant/victim was residing. The applicant / accused used to molest her. Subsequently the further

statement of survivor was recorded on 10 December, 2016, wherein it is alleged that the applicant / accused had forcefully committed sexual intercourse with her. The medical evidence shows that the complainant / victim is sexually habituated. It appears from the medical case papers that in the history given by the victim, it was mentioned that on 20 November, 2016 she went to her friend's house and missing person report was filed. She returned home on 22 November, 2016.

3. Learned advocate for the applicant submitted that the applicant has been falsely implicated since the victim was missing from the house she was questioned by the applicant about her conduct. She further submitted that there is improvement about sexual intercourse in statement which was recorded subsequently. She submitted that the improvements in the statement were made obviously on account of the medical report which indicates that she is sexually habituated. The applicant is the cousin of the complainant / victim. It was submitted that taking into consideration the aforesaid facts the applicant may be released on bail.

4. Learned APP vehemently opposed the application for bail. She submitted that the victim was a minor girl and she was subjected to sexual assault by the applicant / accused. She further submitted that the medical evidence corroborates the oral version of the victim. She further submitted that the accused have committed serious offence and bail should be refused.

5. Learned APP submitted that the investigation is being completed and the chargesheet has been filed.

6. I have perused the First Information Report as well as other documents on record. The allegation about the sexual intercourse is in the form of improvement in the statement which was recorded subsequently. The history referred in medical report indicates that the victim was missing from the house. The applicant is a young boy. There are no criminal antecedents.

7. Hence I pass the following order;

:: ORDER ::

(i) The application is directed to be released on bail in connection with C.R. No.345 of 2016 registered with Byculla

Police Station, Mumbai on furnishing P.R.Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only.) with one or more sureties in the like amount.

(ii) The applicant is directed not to enter into the locality where the victim is residing.

(iii) The applicant shall provide the details about place of his residence to the investigating officer after releasing on bail.

(iv) The present bail application is disposed of accordingly.

[PRAKASH D. NAIK, J.]