

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

BAIL APPLICATION NO.697 OF 2017

Nurul Hasan Gul Hasan Khan Applicant
VS
State of Maharashtra .. Respondent

Mr.Vinod Kashi for Applicant
Mr.Arfa Sait APP for State
Mr.Sudhakar Palande PSI
Khar Police station present

CORAM: PRAKASH D.NAIK, J
DATE: 21 JULY 2017

P.C.

1. This is an Application for bail in connection with C.R.No.549 of 2017 registered with Khar Police Station for the offence under sections 377, 506 (2) and section 4, 12 of the POCSO Act.

2. The prosecution case is that on 19.11.2016 the Complainant victim was having extra Maths class in his school. The class was over at about 8.30 p.m. Since there was death in the family, the victim boy decided to go to his friend's house for studying. He boarded a taxi. The taxi driver took the taxi

towards 16th Road Khar. When the taxi reached Mini Punjab Hotel the victim realized that the taxi went ahead passing the house of his friend. At about 9.30 p.m. the taxi driver stopped the taxi on 16th road at Khar in one corner. There was darkness in the corner. The taxi driver told the victim to suck his private part. The victim boy who is 15 years old was scared and obeyed the directions of the taxi driver. The victim was also threatened by the taxi driver. As the victim was having less money, he went to the house of his friend and paid the taxi fare to the taxi driver. The victim took the taxi number. The victim then narrated the incident to the mother of his friend. Thereafter, the incident was informed to the father of the victim. They went to Bandra Police Station to lodge FIR and thereafter to Khar Police Station as they were directed to lodge a complaint with the said police station. The accused was arrested on 22.11.2016. The identification parade was conducted wherein he was identified.

3. The learned Advocate for the Applicant submitted that the Applicant has been falsely implicated in this case. It is submitted that the facts narrated by the victim appears to be

concocted as there was a quarrel with the victim on account of taxi fare. It is further submitted that the statement of the mother of the friend of the victim has not been recorded by the police. It is submitted that Bandra Police station has also not recorded the statement of the victim and others when they had visited the said police station. It is submitted that the time consumed in the travelling as stated by the victim is one hour which is difficult to believe and therefore this is a false case lodged against the Applicant. The taxi number was wrongly recorded. It is further submitted that although the Applicant has been identified, further statement of the victim was not recorded by the police after conducting the identification parade stating that the Applicant is present who has committed the alleged crime.

4. In the circumstances, it is submitted that the Applicant is in custody from the date of his arrest and he may be granted bail on any conditions.

5. The learned APP opposed the Application. I have perused the documents on record. There is sufficient evidence to

connect the Applicant with the said crime. The victim has narrated the incident and attributed overt act to the Applicant. The place of the incident was dark and the accused took the benefit of darkness and compelled the victim to commit the said act. It is also to be noted that the Applicant has been identified during the identification parade. In view of this, it is clear that there is *prima facie* evidence showing involvement of the Applicant in the said crime. Hence, no case for grant of bail is made out. Hence the following order :

ORDER

Bail Application No.697 of 2017 is rejected.

(PRAKASH D.NAIK, J)

