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

CRIMINAL BAIL APPLICATION NO.737 OF 2017

Pawan Pralhad Rathod	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Rajiv Patil, Senior Counsel i/b Mr.P.R.Rathod, for the Applicant.

Mr.R.M.Pethe, A.P.P for the Respondent-State.

API – V.S.Pawar, Khadakpada Police Station, Kalyan, Thane.

CORAM : REVATI MOHITE DERE, J.

DATE : 29th AUGUST, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-399 of 2016 registered with the Khadakpada Police Station, Thane, for the alleged offences punishable under Section 377 of the Indian Penal Code and under Sections 4, 8 and 12 of Protection of Children from Sexual Offences Act.

3. Learned Senior Counsel for the applicant submits that the applicant is a young boy, aged 19 years, who is in custody since November, 2016. He submitted that investigation is complete and charge-sheet is filed. Learned Senior Counsel relied on the medical certificate of the victim boy to show that the victim boy had not sustained any external injuries.

4. Learned APP opposed the application.

5. Perused the papers, in particular the statement of the victim boy, aged 10 years. A perusal of the statement of the victim boy shows that the applicant had called him to his residence on 28th November, 2016 and the alleged incident of sexual assault took place, at about 5.00 to 5.30 p.m. He has stated that the applicant asked him to play on his mobile and thereafter, the applicant forcibly took him to the kitchen; undressed himself and him (victim boy) and thereafter committed unnatural sexual assault on him. He has stated that because of the said act, he started weeping and was unable to pass stools and that he was bleeding from the said place. He has stated that he immediately informed his mother, pursuant to which, the aforesaid complaint was lodged. The medical certificate of the victim boy,

which is on page 76 of the application shows 'Anal Canal dilacul and patulous redness ++. Anal Swab taken and sent for CA.' The CA report is received. It appears that no semen was detected. Be that as it may. Prima facie it appears, that it is not a case where the applicant is stated to have ejaculated and hence non-finding of semen stains, is not detrimental to the prosecution case. Prima facie, the statement of the victim boy and his mother, clearly shows the complicity of the applicant. There is nothing on record to show, that the applicant has been falsely implicated in the case. The FIR was also lodged promptly.

6. Considering the aforesaid, this is not a fit case to enlarge the applicant on bail.

7. Hence, the application for bail is rejected and disposed of as such. However, considering the fact that the victim boy is aged 10 years, the trial of the applicant is expedited. The learned Judge to conclude the trial as expeditiously as possible and preferably within 12 months from the date of receipt of this order.

8. It is made clear that the observations made herein are prima facie for deciding the aforesaid application, and the learned Judge shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)