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

CRIMINAL BAIL APPLICATION NO.983 OF 2017

Sajid Nasim Ahmad Khan

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms.S.F.Sothe i/b S.P.Associates, for the Applicant.

Ms.J.S.Lohakare, A.P.P for the Respondent-State.

PSI – S.B.Zarekar, Shivaji Nagar Police Station.

CORAM : REVATI MOHITE DERE, J.

DATE : 23rd 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.461 of 2016 registered with the Shivaji Nagar Police Station, for the alleged offences punishable under Sections 376 and 354 of the Indian Penal Code and under Sections 6 and 10 of the Protection of Children from Sexual Offences Act.

3. Learned Counsel for the applicant submits that the medical certificate of the victim girl, aged 4 ½ years, shows no evidence of physical injuries or signs of use of force on the prosecutrix/victim girl. She submitted that investigation is complete and charge-sheet is filed and hence the applicant be enlarged on bail.

4. Learned APP opposed the application.

5. Perused the papers, in particular the statement of the victim girl. The victim girl is aged about 4 ½ years and the applicant about 26 years. According to the complainant, the incident took place on 1st November, 2016. She has stated that her daughter disclosed to her that the applicant called her to his house and closed the door and removed her under clothes and committed sexual assault on her and also outraged her modesty. The statement of the victim girl, aged 4 ½ years also shows that the applicant had removed her inner clothes and done 'गंदा काम.' It is mentioned in the medical certificate, that 'no evidence of physical injuries or signs of use of force on the prosecutrix/victim girl, however, sexual violence cannot be ruled out'. According to the complainant, the applicant had touched the

private parts of the victim girl. It also appears from the complainant's statement that she had seen semen stains on her daughter's undergarments and over her private parts and on her inner thigh, which were washed by her.

6. Considering the seriousness of the offence and keeping in mind the age of the victim girl, 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.

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.)