

Anand

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

BAIL APPLICATION NO.1068 OF 2017

Mangesh Bhagwan Kamble .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. V. V. Purwant, Advocate, for the Applicant
Ms J. S. Lohakare, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 25.09.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-242 of 2015 registered with the Navghar Police Station, District – Thane, for the alleged offences punishable under Sections 376(2)(i), 354(B) of the Indian Penal Code and under Sections 10 & 12 of the Protection of Children from Sexual Offences Act (for short 'POCSO').

3. Learned counsel for the Applicant submits that the Applicant has been falsely implicated in the said case. He submitted that

in the FIR lodged by the prosecutrix's father, there are no allegations of Section 376 of the IPC qua the Applicant. He submitted that only subsequently i. e. after almost ten days when the prosecutrix's statement was recorded, that section 376 of the IPC was added. He submitted that the Applicant is in custody for the last two years.

4. Learned APP opposes the Application.

5. Perused the papers, in particular, the statements of the prosecutrix. The prosecutrix was about 14 years of age, at the time of the incident. The incident is alleged to have taken place on 19.09.2015. According to the Complainant, when he went to the Applicant's house, he found his daughter undressed below the waist. When questioned, the prosecutrix disclosed that the Applicant had brought her to a room, removed her salwar and on hearing her father's voice, had fled from the spot. In the Supplementary Statement dated 21.09.2015, the prosecutrix in detail, has set out the manner in which she was sexually assaulted by the Applicant. The history given by the prosecutrix to the Doctor is also consistent with the said statement. The medical examination shows evidence of recent vaginal penetrative sexual intercourse.

6. Considering the aforesaid, this is not a fit case to enlarge the Applicant on bail. Hence, the Application stands rejected. However, the trial of the Applicant is expedited.

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.

(REVATI MOHITE DERE, J.)