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

CRIMINAL BAIL APPLICATION NO.1161 OF 2017

Wilson Singamani Dawson	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms.P.P.Kakade, i/b Ms.P.U.Raibole, for the Applicant.

Mr.S.R.Agarkar, A.P.P for the Respondent-State

API - Anita K. Khedkar-Raskar, Mundhva Police Station, Pune.

CORAM : REVATI MOHITE DERE, J.

DATE : 22nd JUNE, 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.171 of 2016 registered with the Mundhva Police Station, Pune, for the alleged offence punishable under Section 376 of the Indian Penal Code and under Sections 4, 6 and 8 of Protection of Children from Sexual Offences Act.

3. Learned Counsel for the applicant submits that the applicant has been falsely implicated in the said case. She submits that the disclosure made by the prosecutrix of stomach ache was misconstrued by the complainant's mother. She submitted that the applicant could not have done the alleged act, in a class of 13 students. She further submitted that the complaint has been lodged two months after the incident and that the medical certificate does not show that the prosecutrix had suffered any injuries on her person.

4. Learned APP opposed the application.

5. Perused the papers, including the statement of the prosecutrix and her friend. According the complainant, who is the mother of the prosecutrix, her daughter was going to the applicant's house for private tuitions. She has stated that for about 3 months, her daughter was complaining of stomach ache, pursuant to which she was taken to the hospital and was given medicines for acidity. She has stated that her daughter's stomach pain continued and that she refused to go for the classes conducted by the applicant. She has stated that on 14th August, 2016, her

daughter started having stomach pain and disclosed to her that the applicant would insert his finger in her private part, resulting in tremendous pain. She has stated that on further enquiry, her daughter disclosed that the same was taking place for about 2 months, pursuant to which, the aforesaid complaint was lodged by the prosecutrix's mother. The statement of the prosecutrix, aged 8 years is consistent with the aforesaid statement. The statement of her friend who was attending the classes, also shows that the applicant would ask her to turn her face towards the wall and that she would tell the applicant that she was having pain. The opinion given in the medical certificate reads thus:- 'Upon examination, the possibility of oral or vaginal or anal or urethral penetration by a penis like object, other parts of the body, not by the penis or any other foreign object not by the part of the body, cannot be ruled out.' The prosecutrix was about 8 years old at the relevant time and the applicant, a tuition teacher about 35 years.

6. Considering the *prima facie* material on record, 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, the trial of the applicant is expedited.

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

(REVATI MOHITE DERE, J.)