

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1260 OF 2017

ABDULLA EBULHAQ ANSARI)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.N.S.K.Ayubi, Advocate for the Applicant.

Ms.P.P.Shinde, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 8th NOVEMBER 2017

P.C. :

1 This is an application sent by the applicant / accused in Crime No.308 of 2015 registered with Vile Parle Police Station for offences punishable under Sections 376, 506 and 323 of the Indian Penal Code (IPC) as well as Sections 4 and 6 of the Protection of Children from Sexual Offences Act (POCSO Act). Ms.N.S.Ayubi, the learned advocate on the panel of the High Court Legal Aid is appointed to represent the applicant / accused, at the cost of the State.

2 Heard Ms.N.S.Ayubi, the learned advocate appearing for the applicant/accused. She argued that the applicant / accused is behind bars from the year 2015 and as yet the trial has not commenced. Therefore, the applicant / accused is entitled to be released on bail.

3 The learned APP opposed the application by contending that allegations are to the effect that the applicant / accused had committed penetrative sexual assault on his own daughter, who at the relevant time was aged about 15 years. Therefore, the applicant / accused is not entitled for bail.

4 I have carefully considered the rival submissions and also perused the material produced by the learned APP. According to the prosecution case, the applicant / accused under influence of the liquor used to indulge in penetrative sexual assault on his own daughter, who was aged about 15 years. The victim – female child was found roaming at Kalyan Railway Station. She disclosed the incident to a person from Dongri Bal Sudhar Gruha and that is

how the crime in question came to be registered on the basis of the statement of the minor female victim, recorded by the Investigator. It is seen that medical evidence is supporting the prosecution case.

5 Considering the nature of offence, the applicant / accused is not entitled to be released on bail. The learned APP states that Special Case No.211 of 2015 arising from the said crime, is fixed for framing Charge on 16th November 2017. Therefore the order :

ORDER

- i) The application is rejected.
However, the learned trial court is directed to expedite the hearing of Special Case No.211 of 2015 at City Civil and Sessions Court, Dindoshi, Borivali Division, arising out of Crime No.308 of 2015, registered with Vile Parle Police Station, Mumbai.
- ii) A copy of this order be sent to the applicant / accused, who is in jail.

(A. M. BADAR, J.)