

Anand

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

BAIL APPLICATION NO.1295 OF 2017

Gopal alias Sonu Jitendra Rai .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Kunal Tiwari i/b. Mr.K.R.Tiwari, Advocate, for the Applicant
Mr.A.S.Patil, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 28.08.2017

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.431 of 2016 registered with the Samta Nagar Police Station, Mumbai, for the alleged offences punishable under Sections 376, 377 of the Indian Penal Code and under Sections 4, 8, 10 & 12 of the Protection of Children from Sexual Offences Act.

3. Learned counsel for the Applicant submitted that there is a delay in lodging the FIR inasmuch as, the alleged incidents of sexual assault had taken place on 02.06.2016, 28.08.2016 & 29.08.2016,

however, the same was reported by the prosecutrix to her mother only on 06.09.2016, pursuant to which the FIR was lodged only on 09.09.2016. He submitted that the Applicant is a distant relative of the victim's mother and that the Applicant has been falsely implicated, as he had refused the marriage proposal of one girl suggested by the victim's mother.

4. Learned APP opposes the Application.

5. Perused the papers. The victim is aged seven years and the Applicant is about 23 years of age and is a distant relative of the victim girl. A perusal of the statement of the victim girl shows that she used to address the Applicant as “Sonu Bhaiyya”. She has stated that on 02.06.2016, 28.08.2016 & 29.08.2016, the Applicant touched her inappropriately and sexually assaulted her thereafter. She has given in detail the description of the sexual assault by the Applicant. She has stated that when her mother took her for bath, she complained of pain, pursuant to which, she disclosed to her mother what has happened. According to the victim girl, she had not disclosed the incident of sexual assault earlier, as the Applicant had threatened her. The Medical Report of the victim girl is consistent with her statement as well as the clinical

findings. Column No.15 of the Medical Report shows that there was sexual violence on the victim girl.

6. Considering the aforesaid, this is not a fit case to enlarge the Applicant on bail. Accordingly, the Application stands rejected.

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.)