

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1578 OF 2017

Mr.Imran Atiulla Khan ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

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Ms.Priyanka Dubey with Ms.Radha Agrawal Ms.Ravita Kadam
with Ms.Savita Vishvakarme, Advocate for the Applicant.

Mr.R.M.Pethe, APP for the Respondent/State.

Mr.Jayant Ramchandra Pardeshi, PI presently at V.P.Marg Police
Station, is present in person.

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CORAM : A.M.BADAR J.

DATED : 6th NOVEMBER 2017.

P.C. :

1 The applicant/accused in Crime No.11 of 2017 for
offences punishable under Sections 363, 376-D, 328 read with
Section 34 of the Indian Penal Code as well as Sections 4 and 6 of
the Protection of Children from Sexual Offences Act, 2012, by this
application, is seeking his release on bail during pendency of the
trial.

2 Heard the learned Advocate appearing for the
applicant/accused. She drew my attention to the history given by

the alleged victim in the crime in question to demonstrate that the victim was having friendly relations with the present applicant i.e. Imran Khan. It is argued that the alleged victim had stayed at the house of co-accused Vishal for 14 days and then she was found to be in company of accused persons on 24/01/2017 at Nagpada area of Mumbai. In submissions of the learned Advocate appearing for the applicant/accused, case of the prosecution suffers from several contradictions and omissions. Though the prosecution averred that the applicant was one of the person, who was found in company of the alleged victim of the crime in question on 24/01/2017, the applicant is shown to have been arrested by the police on 26/01/2017. The case of the prosecution is doubtful and, therefore, during pendency of trial, the applicant deserves to be released on bail.

3 The learned Additional Public Prosecutor opposed the application.

4 I have carefully considered the rival submissions and also perused the entire charge sheet.

5 The FIR of the crime in question is registered on the basis of report lodged by one Tejpratap Singh on 15/01/2017. He is father of the alleged victim. It is case of the prosecution that the alleged victim of the crime in question is a minor female child

aged about 16 years. The said minor female child is a mentally retarded child. The father informed that the female child left the house on 12/01/2017.

6 It is case of the prosecution that subsequently, the minor female child was found in company of accused persons. Her first statement came to be recorded on 27/01/2017. In her statement, she informed that by local train she went to Charni Road and from there she went to Girgaon Chaupati. In that night, as per version of the minor female child she is raped by two accused namely Imran and Vishal. On the next day, she was taken to the house of the co-accused named Vishal in taxi. She stayed there for few days. After three to four days, Imran and Vishal took her to a room and there also she is raped by Imran and Vishal. Thereafter, the minor female child claims that she again stayed with co-accused Vishal at his house. Her supplementary statement came to be recorded by the Investigator. She reiterated the same facts in it.

7 During investigation, statements of witnesses named Vijaykumar Lohar and Mohd.Miraj are recorded. As per their versions, the minor female victim came to them and called them. Accordingly, both of them went at Nagpada. Statement of these witnesses also goes to show that the minor female victim was in company of present applicant Imran.

8 According to the prosecution case minor female child of the crime in question was aged about 16 years. She has not attained consenting age. Considering the nature of crime as well as the fact that the minor female victim of the crime in question is naming the person as present applicant who is one of the person who has repeatedly raped her, no case for bail is made out.

9 The application is rejected. However, the learned trial Court is directed to expedite the hearing of the trial.

(A.M.BADAR J.)