

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1604 OF 2017

Sonu @ Omprakash Lallan Vishwakarma... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

....

Ms.Darshana A. Tripathi, Advocate for the Applicant.

Ms.Veera Shinde, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 1st NOVEMBER 2017.

P.C. :

1 The applicant/accused in Crime No.I-509 of 2015 registered with Police Station, Tulinj, Palghar for offences punishable under Sections 376(2)(i)(j)(k), 342 of the Indian Penal Code as well as Sections 4,8 and 10 of the Protection of Children from Sexual Offences Act, 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 vehemently argued that the offence in questions is allegedly took place on 10/10/2015 and the applicant, who is a young boy of 19 years of age came to be arrested immediately on the next day. He is behind bars for more than 25

months. It is further argued that though hymen of the victim was not found intact, this fact can be attributable to various reasons. No medical treatment was given to the alleged victim of the crime in question. There is no eye-witness to the incident in question which, according to the prosecution case, took place in thickly populous locality.

3 The learned APP opposed the application by contending that the crime in question is serious and, therefore, the applicant is not entitled for bail.

4 According to the prosecution case, as reflected from the charge-sheet, on 10/10/2015, the applicant dragged the minor female child aged about 10 years in the room at Ganesh Dham Chawl and committed penetrative sexual assault on her. Statement of the minor female child is recorded in question-answer form on 10/12/2015 by the Investigator. She has categorically stated about penetrative sexual assault by the applicant by dragging her inside the room in chawl. Though it is not expected to have any eye-witness to such incident, in the case in hand, the incident is witnessed by several resident of the locality as they heard cries of the minor female victim coming from the room in question. Statements of Parveen Shaikh, Santosh Gurav, Ashwini Gaud, Sindhu Rajbhar, Rani Chauhan etc. recorded by the Investigator candidly show that they had

witnessed the incident of penetrative sexual assault on the minor female victim of the crime in question from the window of the room in the chawl. The minor female victim of the crime in question was subjected to medical examination in which it was found that the hymen of the victim was not intact.

5 In the wake of this evidence against the present applicant and considering the nature of crime against the teen aged female child, no case for bail is made out.

6 The application is, therefore, rejected.

(A.M.BADAR J.)