

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

CRIMINAL BAIL APPLICATION NO.1615 OF 2017

Ahmed Abdul Aziz Khan

.. Applicant

vs

State of Maharashtra

.. Respondent

Ms.Sonal Parab I/b M/s Rajeev Sawant

Associates for Applicant

Mr.A.R.Kapadnis APP for State

CORAM : PRAKASH D.NAIK J

DATE : 21 JULY 2017.

P. C. :

1. This is an application for bail in connection with C.R.No.337 of 2017 registered with Sakinaka police station. The FIR was registered on 18.6.2017 for the offence under sections 354 (A) and sections 8 and 12 of POSCO Act. The complaint was lodged by the mother of the victim who is aged 9 years. The prosecution case is that on 17.6.2017 the victim was playing in podium garden of the society. It is stated that one old man was sitting in the garden and doing some exercises. He called the victim and spoke to her. He also He also moved his hand on her back and caught hold of her right hand and kept it near the chain of his trouser. The victim went home and narrated the incident to her mother. On the next day, father of the victim went to the garden along with the victim. The accused

was standing in the garden. The victim identified the accused. He was confronted by the father of the victim. The accused gave evasive reply and hurriedly left the place. The statement of the victim was recorded on 18.6.2017 wherein she narrated the aforesaid incident. The Applicant was arrested on 19.6.2017. The FIR was lodged on 18.6.2017.

2. Learned Advocate for the Applicant submitted that the Applicant has been falsely implicated in this case. The Applicant is 73 years old person. It is submitted that it is difficult to believe that the Applicant has committed the said act. It is further submitted that there are several persons in the garden and it is difficult to accept that the Applicant would indulge in such act. It is further submitted that the Applicant is a senior citizen and suffering from various ailments. The medical certificates in that regard has been annexed to the application. It is submitted that the Applicant is also suffering from joint pains and has been facing hardship in the custody. The Applicant is willing to stay away from the locality where the alleged incident has occurred.

3. The learned APP has opposed the Application for bail. It is submitted that the Applicant has committed a serious crime and the victim has no reason to falsely implicate the Applicant. The statement of the victim has been recorded and she has narrated the incident. It is further submitted that there is evidence to connect the Applicant in the said crime.

4. I have perused the FIR and the documents annexed to the Application. It is true that the victim has narrated the incident attributing overt act to the Applicant committing the alleged act. The victim has stated that the accused had caught hold of her hand and kept near the chain of his pant. However, it is noted that the Applicant is in custody from 19.6.2017. Although the Sessions Court has rejected the application on the ground that investigation is in progress. On perusal of the investigation papers, it appears that the investigation is almost completed. Statement of the victim is also recorded by the investigating Officer as well as statement under section 164 of Cr.P.C. recorded. The Applicant is aged about 73 years. He is also suffering from ailments and not keeping good health. From the medical certificate annexed to the Application, it is

apparent that the applicant is suffering from ailments on account of old age.

5. The Applicant has also annexed a recent medical certificate which shows that the Applicant is not keeping good health. In the light of the aforesaid circumstances, on certain conditions, bail can be granted to the Applicant. Hence, I pass the following order :

ORDER

- (i) Bail Application No.1615 of 2017 is allowed.
- (ii) The Applicant is directed to be released on bail on furnishing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount ;
- (iii) The Applicant is directed to report at Sakinaka Police Station as and when called for by the police till the filing of the charge sheet;
- (iv) The Applicant shall not stay in the residential complex where the victim is residing;
- (v) The Applicant shall not tamper with the evidence;
- (vi) The Applicant is permitted to furnish cash surety in the sum of Rs.25,000/- for a period of four weeks in lieu of surety.

(PRAKASH D.NAIK, J)

