

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

BAIL APPLICATION NO. 1662 OF 2017

Raju Ganehsram Devasi

... **Applicant**

V/s.

The State of Maharashtra

... **Respondent**

Mr. Ajinkya Badar for the Applicant.

Mr. S. H. Yadav, APP for the Respondent/State.

Mr. A. D. Madke, A.P.I., attached to Kamothe Police Station.

CORAM : A.S.GADKARI, J.

DATE : 25th SEPTEMBER, 2017

P.C.:

. This is an application under Section 439 of Cr.P.C. in C.R. No.27/2017 dated 18.02.2017 registered with Kamothe Police Station, District Navi Mumbai under Sections 376 and 506 of the Indian Penal Code and Sections 3, 4, 7 and 8 of Protection of Children from Sexual Offences Act.

2 With a view to protect the identity of the victim girl who is minor and in consonance with the provisions of Section 228-A of the IPC, the detail narration of facts mentioned in the First Information Report and the statements of other witnesses are hereby avoided.

3 It is the prosecution case that the victim who was aged about 16 years at the relevant time, used to purchase grocery items from New Padoji Super Market, Sector No.21, Kamothe, Navi Mumbai where the Applicant was working as a

servant. That on the date of incident, the Applicant committed an offence as contemplated under Section 376 of Indian Penal Code along with Sections 3, 4, 7 and 8 of the Protection of Children from Sexual Offences Act. The prosecutrix thereafter, suffered physical pain and confided the said fact with her mother. The First Information Report came to be lodged on 18.02.2017 and during the course of investigation, Applicant came to be arrested on 19.02.2017. After completion of investigation, the police have submitted chargesheet.

4 Learned Counsel for the Applicant submitted that the victim was a consenting party to the said act. Learned Counsel for the Applicant submitted that medical evidence produced by the prosecution has not supported the contention of the victim girl. He further submitted that investigation as of today is completed and there is no need to further detain the Applicant in jail and therefore, the Applicant may be released on bail.

5 It is the well settled position of law as has been enumerated by the Hon'ble Supreme Court in the case of *Aman Kumar And Anr. v/s State Of Haryana* [AIR (2004) SC 1497], that the prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. That there is no rule of law that her testimony cannot be acted without corroboration in material particulars. She stands at a higher pedestal than an injured witness. That in the later case, there is injury on the physical form, while in the former it is both physical as well as psychological and emotional. The same view is further expressed by the

Supreme Court in the case of State of *Himachal Pradesh V/s. Shree Kant Shekari* [AIR (2004) SC 4404].

6 After perusing the record, it clearly appears that the statement of victim girl is reliable and trustworthy. The said statement is further corroborated by the statement of first informant i.e. her mother with whom the victim girl has firstly confided about the said act of the Applicant. The prosecutrix was aged about 16 years when the alleged offence was committed by the Applicant and therefore, the investigating agency has invoked the provisions of Protection of Children from Sexual Offences Act to the present crime. Learned APP submitted that statement of prosecutrix has also been recorded under Section 164 of Cr.PC.

7 In view of the above I find that the Applicant does not deserve to be released on bail.

8 The record indicates that the Applicant is behind the bar since 18.02.2017. In view thereof, the Additional Sessions Judge, Alibag ceased of trial arising out of CR No. 27/2017 registered with Kamothe Police Station, Navi Mumbai is hereby directed to expedite the trial and to make an endeavor to conclude the same within a period of one year from the date of receipt of present order.

9 Application is dismissed with the aforesaid directions.

(A.S.GADKARI, J.)