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

CRIMINAL BAIL APPLICATION NO.1735 OF 2017

Farid Sharif Shaikh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Syed Asif Abbas Naqvi, for the Applicant.

Ms.Anamika Malhotra, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 6th SEPTEMBER, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-03 of 2016 registered with the Vashi Police Station, Navi Mumbai, for the alleged offences punishable under Sections 363, 376 r/w 34 of the Indian Penal Code.
3. Learned Counsel for the applicant submits that there are

several discrepancies in the statements of the prosecutrix recorded under Section 161 and Section 164 of the Code of Criminal Procedure as well as the history given by the prosecutrix. He submitted that the applicant is languishing in jail since December, 2015. He further submitted that even the description given by the prosecutrix of the person who sexually assaulted her is different in the statements.

4. Learned APP opposed the application.

5. Perused the papers. According to the prosecutrix, co-accused – Zakiya Qureshi on a couple of occasion had taken her to her house. She has alleged that on one day when she was alone in co-accused – Zakiya's house, one unknown person came into the house, locked the door and sexually assaulted her. She has stated that when co-accused – Zakiya returned home, she informed her of the same, however, co-accused – Zakiya disclosed that she should not disclose the same to any person. The statement of the prosecutrix has been recorded both under Section 161 and under Section 164 of the Code of Criminal Procedure. In the history given by the prosecutrix, the prosecutrix has stated as under:-

“The victim was forcibly asked by a women known to her to accompany her to her house at 2.00 p.m., on 24/12/15. The victim was forced to have intercourse with the lady's brother-in-law on the night of 24/12/15 once.”

6. On General Examination, it was found that there was injury found on the hymen of the prosecutrix and the overall findings was stated to be consistent with sexual intercourse/assault. No doubt, there are certain discrepancies in the statements as well as the history, but the fact remains that the prosecutrix had identified the applicant as being the person who sexually assaulted her. The prosecutrix was about 18 years at the relevant time. There is nothing on record to show why the prosecutrix would falsely implicate the applicant.

7. Considering the aforesaid, this is not a fit case to enlarge the applicant on bail.

8. Hence, the application for bail is rejected and disposed of as such. However, the trial of the applicant is expedited. The learned

Judge to conclude the trial as expeditiously as possible and preferably within 9 months from the date of receipt of this order.

9. It is made clear that the observations made herein are prima facie for deciding the aforesaid application, and the learned Judge shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)