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

CRIMINAL BAIL APPLICATION NO. 1607 OF 2016

Surekha Kishor Sutar

...Applicant

VS

The State of Maharashtra

...Respondent

.....

Mr Arun Rajput i/b Ms Anjali Patil for the Applicant

Ms P.P.Shinde APP for the Respondent

.....

**CORAM : SMT SADHANA S. JADHAV, J.
17 JANUARY, 2017**

P.C. :

Heard. This is an application under Section 439 of the Code of Criminal Procedure, 1973. The Applicant herein is in custody since 17 August, 2015 in Crime No.118 of 2015 registered at Aarey Police Station. The investigation is completed and charge-sheet is filed against the Applicant for the offences punishable under Sections 376, 377, 354, 506 r/w 34 of Indian Penal Code and Sections 4, 7, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2 It is the case of the prosecution that the present Applicant happens to be the daughter of Sulochana Ramchandra Tilotkar, who is the landlady of the Complainant. It appears from the papers of investigation that Sulochana Tilotkar had requested the Complainant to vacate the room in which she was residing as she was not paying

the rent. The relations between both families were initially cordial. Subsequently, there were disputes and non-cognizable cases were registered against each other. The Complainant resides in the said room along with her minor daughter who is shown as victim in the present case. Husband of the present Applicant had molested minor daughter of the Complainant during the period of March to April 2015. The First Information Report is lodged on 16 August, 2015 after registration of several non-cognizable cases against each other, in which there is no reference to outraging modesty of the victim by the husband of the present Applicant. The investigation is completed and charge-sheet is filed on 20 October, 2015.

3 Perused the statement of the victim. She has stated that her date of birth is 6.1.2004. She was studying in 6th standard at the time when her statement was recorded. She has disclosed that in the month of March 2015, when she was sleeping next to her parents, the husband of the Applicant had molested her. It is further alleged that the husband of the Applicant used to molest the victim in presence of the present Applicant and that she had not stopped him nor retaliated.

4 Be that as it may, the Applicant cannot be prosecuted for the offence punishable under Section 376 of Indian Penal Code as the Applicant is a women. The only role attributed to the Applicant is that she had maintained silence in respect of the acts of her husband. The Applicant has been in custody for more than 16 months and deserves to be enlarged on bail. The observations made in this order shall not

be taken for the purpose of quashing of F.I.R., discharge application or at the time of trial. Hence the order.

ORDER

- (a) The Applicant be enlarged on bail on furnishing P.R. in the sum of Rs.15,000/- with one or more sureties in the like amount;
- (b) The application is allowed and stands disposed of accordingly.

(SMT SADHANA S. JADHAV, J.)