

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2042OF 2017

Yakub @ Mustafa Ismail Salim Shaikh

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Jabali i/b Sameeruddin for the applicant.

Ms.P.P.Shinde, APP for the State.

PI Vinayak Shinde ,P.S.Trombay

CORAM: A.M. BADAR, J.

DATED: 9th NOVEMBER 2017

PC:-

1. The applicant/accused in Crime No.129 of 2017 for the offences punishable under Section 376, 377 of the Indian Penal Code and under Section 4, 6 and 12 of Protection of Children from Sexual Offences Act, 2012 registered with police station Trombay, by this application is seeking his release on bail during the pendency of the trial.

2. Heard the learned advocate appearing for the applicant/accused. He drew my attention to the reports of medical examination of alleged victim minor male children. He argued that the medical reports are not supporting the case of the prosecution despite specific allegations regarding

oral and anal sex. It is further argued that the applicant is falsely implicated in the crime in question because of monetary dispute between him and the first informant. The applicant is not having any criminal antecedent .

3. The learned APP opposed the application

4. I have carefully considered the submissions and also perused the entire charge-sheet. The crime in question is registered on the basis of report lodged by mother of one of the victim male child. The first informant reported that the male child informed her that he is having pain while passing stool and then disclosed the incident to her. The members of the prosecuting party then went to the house of the applicant and questioned the applicant after his identification by the victim male child.

5. According to the prosecution case, the crime in question is committed against two male children. One of them is 9 years old, whereas the another is 7 years old. Their statements are recorded in question-answer form by the investigator.

Both of them have stated that when they were playing near the burial ground, the applicant/accused came and gave some money to them and then committed oral as well as anal sex with them.

6. Corresponding injuries on the victim is not a *sine quo non* for making out the offence alleged. In the crime of such nature, at this pre-trial stage, it is not possible to infer that the applicant is falsely roped in the offence because of some financial transaction. Ultimately, such type of crime affects the honour and reputation of the family apart from the future of the victim of the crime in question.

7. Considering the nature of the crime in question, no case for bail is made out. Therefore, the application is rejected.

(A.M. BADAR, J)