

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2591 OF 2017

ALLAUDDIN HUSSAIN SAYYED)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Vaibhav Punekar, Advocate for the Applicant.

Ms.Anamika Malhotra, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 27th NOVEMBER 2017

P.C. :

1 The applicant/accused in Crime No.99 of 2016, registered with Police Station Trombay, for offences punishable under Section 376 of the Indian Penal Code (IPC) and under Section 4, 8 and 12 of the Protection of Children from Sexual Offences Act, by this application, is seeking his release on bail during pendency of the trial.

2 Heard the learned advocate appearing for the applicant/accused. He argued that the applicant/accused is behind bars for more than 1 year and there is no likelihood of commencing of the trial in near future. He argued that statement of the First Informant does not show ingredients of offences alleged against the present applicant/accused. It is further argued that the papers of medical treatment of the alleged minor female victim show that her parents refused to admit her for medical treatment at the hospital. There is no evidence to connect the applicant/accused with the alleged offence.

3 The learned APP opposed the application by pointing out report of the medical examination of the victim and submitted that the victim was six years old female child, and therefore, her version needs to be construed, considering her age.

4 I have carefully considered the rival submissions and also perused the material made available on record.

5 The incident alleged took place on 12th April 2016 at the house of the present applicant/accused. The First Informant is mother of the victim female child. Her version shows that upon hearing cries of her minor female child, she thumped the door of the house of the present applicant/accused by shouting. Then, her daughter came out of the house of the present applicant/accused. She enquired from her minor female child as to what happened. The First Informant reported that her minor female child disclosed to her that the present applicant/accused had removed her nicker and caressed her vagina. Statement of the minor female child shows that the present applicant/accused removed her nicker and put his hand inside. The minor female victim of the crime in question was then taken to Lokmanya Tilak Municipal Medical College and Hospital, at Sion. The Medical Officer examined the minor female child and found her hymen ruptured. The hymen was also found to be congested. The Medical Officer reported that the injury of the hymen is of recent origin and caused within twelve hours of the examination of the minor female child.

6 Ruptured hymen with congestion does not allow me to hold that ingredients of alleged offences are absent. Considering the nature of offence and the manner in which it is committed, no case for bail is made out.

7 The application is, therefore, rejected.

8 The learned trial court to consider the disposal of the trial keeping in mind the pendency of the cases.

(A. M. BADAR, J.)