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

CRIMINAL BAIL APPLICATION NO. 2563 OF 2016

Naushad Ali Gulam Mustufa Shah

...Applicant

vs

The State of Maharashtra

...Respondent

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Mr B.T.Taware a/w Mr Gautam Jain i/b B.G.Tangsali for the Applicant
Ms P.P.Shinde APP for the Respondent.

Mr B.S.Pawar, PSI Bhiwandi city police stn. Present.

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

P.C. :

Heard. This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 30th March 2016 in Crime No.90 of 2016 registered at Bhiwandi City Police Station. The investigation is completed and charge-sheet is filed against the applicant for the offences punishable under Sections 377 and 506 of Indian Penal Code and Sections 4,6,8,10 and 12 of POCSO Act.

2 It is the case of the prosecution that the applicant herein was teaching Arabi language to the son of the complainant. On 30th March 2016 Sadik Mulla lodged a report at the police station alleging therein that on 28th March 2016 his son informed him that the applicant has subjected him to unnatural sex. On 29th March 2016 in the course of inquiry with the victim he has stated that the applicant

herein had lured him and had assured him that he would give a cricket bat to him and under the said pretext had taken him to the public lavatory and had performed unnatural sex with him. On the basis of the said report Crime No.90 of 2016 was registered at Bhiwandi City Police Station against the applicant.

3 Learned counsel for the applicant submits that the medical evidence does not corroborate said allegations as there are no signs of unnatural sex. Learned counsel further submits that in fact the applicant was assaulted by the father and uncle of the victim. He had been to the police station to lodge a report and at that time the complainant had reached the police station and lodged a report against the applicant. This could be the defence of the accused.

4 In the course of investigation, the statement of the victim is recorded and he has specifically stated the above things. In the course of investigation the Investigating Officer had recorded statement of another student, namely, Arman and he has also stated that the teacher, that is the applicant used to indulge into such activities. He has solicited similar favours from other boys also.

5 Taking into consideration the material collected in the course of investigation and heinous role attributed to the applicant, this Court is of the opinion that the applicant does not deserve to be enlarged on bail. The application being sans stands rejected.

(SMT SADHANA S. JADHAV, J.)