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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION No. 207 OF 2018

Kumar Baburao Yedage	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Kedar Pralhad Lad, for the Applicant.

Mr. S. H. Yadav, APP for the Respondent – State.

Mr. D. Y. Tiwade, ASI, Gokul Shirgon Police Station, Kolhapur.

CORAM : P. N. DESHMUKH, J.

DATE : MARCH 7, 2018

PC :-

1. Heard the learned counsel for the Applicant, learned Additional Public Prosecutor and perused documents filed with charge-sheet by the applicant. The Applicant is involved in CR No.142 of 2017 registered with Gokul Shirgaon Police Station, Kolhapur for offences under section 376, 354-A of IPC and under Section 4, 8, 12 of the Protection of Children from Sexual Offences Act, 2012. The Applicant has filed this application for grant of bail.
2. Learned counsel for the Applicant has submitted that

there is nothing to establish involvement of Applicant in the present crime except the statement of prosecutrix. However, there is no evidence to corroborate her version. It is pointed out that as per medical report applicant is not competent to perform any sexual acts. Mother of complainant has refused to perform the medical examination of the prosecutrix. It is therefore stated that Application be allowed as there is no point in keeping Applicant behind the bar, who is 58 years old, at the time of incident which occurred in July, 2017.

3. Learned Additional Public Prosecutor opposed application contending that statement of prosecutrix is sufficient to establish involvement of Applicant in the present case, however, there is no independent evidence to corroborate the said case of complainant.

4. In view of the submission advanced as aforesaid, from the report of the mother of prosecutrix, it is referred that prosecutrix has stated her that when she was alone in the house, when Applicant residing in the neighbourhood, improperly touched the prosecutrix on her private part. It is contended that she, however, managed to run

away from home by biting on the thigh of Applicant. In the circumstances and on perusal of medical certificate of Applicant, it is revealed that he is unable to perform sexual act. Said certificate by itself is not sufficient to establish innocence of applicant, as it is not case of the prosecution that prosecutrix was subjected to sexual intercourse, however, considering the contents of report of prosecutrix biting on the thigh of Applicant, there is nothing in the medical report in the form of injury on the thigh. In that view of the matter, contents of report prima facie appears to be false. Moreover, no sufficient reasons are putforth by complainant for not allowing medical examination of prosecutrix. As such, there is nothing to corroborate oral version of prosecutrix, as stated above. In that view of the matter application is allowed as per order below:

- i) Applicant be released on bail on his executing PR bond in the sum of Rs. 25,000/- with one surety in the like amount.
- ii) While on bail, applicant shall mark his presence with Shirgaon Gokul Police Station, Kolhapur on the 1st day of each month pending trial and shall not tamper with the

prosecution evidence.

- iii) Applicant shall not enter in the territorial jurisdiction of Shirgaon Gokul Police Station, Kolhapur.
- iv) Learned Trial Court shall not get influenced by any of the observations made hereinabove and shall independently evaluate evidence in the trial.
- v) Application is disposed of in the aforesaid terms.

[P. N. DESHMUKH, J.]

Vinayak Halemath