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

CRIMINAL BAIL APPLICATION NO.245 OF 2018

Sanjay Yashwant Kedar	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms.Anjali Patil, for the Applicant.

Ms.A.A.Takalkar, A.P.P for the Respondent-State.

I.O – API, Vitthal Ardekar, Meghwadi Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 27th APRIL, 2018

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.280 of 2017 registered with the Meghwadi Police Station, Mumbai, for the alleged offences punishable under Sections 354(A) and 324 of the Indian Penal Code and under Sections 8 and 12 of Protection of Children from Sexual Offences Act.

3. Perused the papers. According to the prosecutrix, aged 17 years, she was residing in the house, alongwith her mother, brother, the applicant, step mother and step brother, for about 10 years. She has stated that in the year 2007, the applicant, her father, re-married and started residing in the same house on the upper floor. According to the complainant, the incident took place on 23rd September, 2017, at about 10.30 p.m., when the applicant called her to massage his legs. It is alleged by the complainant that her step mother and step brother were also sleeping there. The complainant has alleged that when she was massaging the applicant's legs, she fell asleep and that at midnight, she found the applicant touching her inappropriately. She has stated that she did not disclose the said incident to her mother, however, disclosed the same to her neighbor and her elder brother on phone. It is further stated that after a few days, the applicant again touched her inappropriately. She has stated that on 28th October, 2017, at about 9.30 p.m., when her step mother and step brother had gone for a fair, and she was at home alongwith her mother, the applicant called her to massage his legs and when she refused to do the same, he allegedly assaulted her with a belt. The complainant has further alleged that on 29th October, 2017, again when she was sitting alone on the

stair case, the applicant came from behind and hugged her and touched her inappropriately and that pursuant thereto, she lodged the aforesaid complaint.

4. Learned Counsel for the applicant submitted that the applicant, complainant, her mother, brother, the applicant's second wife and son from the second marriage, were all staying in the same house and as such the possibility of the said incident happening is bleak. She submitted that a false complaint was lodged only with a view to take over the property/premises.

5. The applicant's first wife (complainant's mother) in her statement has stated that when she came to Mumbai with her children, the applicant would ignore all of them and behave indifferently. She has alleged that she was treated like a servant and was assaulted. The maximum sentence that can be imposed for the offence punishable under Section 354 of Indian Penal Code, is three years and under Section 8 of Protection of Children from Sexual Offences Act is five years. The applicant is in custody since 29th October, 2017. Investigation is complete

and charge-sheet is filed.

6. Having regard to the peculiar facts and circumstances, the application is allowed and the applicant is enlarged on bail, on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/- with one or two sureties in the like amount;
- ii) The Applicant shall attend the Meghwadi Police Station, Mumbai, on the first Sunday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

iv) The Applicant shall not enter the jurisdiction of Meghwadi Police Station, till the conclusion of the trial, except for the purpose of attending the police station, as mentioned in clause (ii);

v) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

vi) The Applicant shall co-operate in the conduct of the trial;

vii) An undertaking to the aforesaid clauses (ii) to (vi), shall be filed by the Applicant, in the trial Court, within two week's of his release;

viii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

7. The Application is allowed and disposed of in above terms.

8. It is made clear, that the observations made herein are *prima*

facie and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

9. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)