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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION No. 271 OF 2018

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|--------------------------|-----|------------|
| Irfan Husain Shaikh      | ... | Applicant  |
| Vs.                      |     |            |
| The State of Maharashtra | ... | Respondent |

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Mr. Rahul Thakur a/w Ms. Roman Belief, for the Applicant.

Mr. Y. M. Nakhwa, APP for the Respondent – State.

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CORAM : P. N. DESHMUKH, J.

DATE : MARCH 22, 2018

PC :-

1. This application is filed by Applicant in C. R. No. 434 of 2017 registered by Jodbhavi Peth Police Station, Solapur for the offence punishable under Section 377 of I.P.C. and 3(A), 4 of POCSO Act. Learned counsel for Applicant contended that according to injury report since no injuries are found on the private part of victim, in the present crime, it cannot be said that he was subjected to any such act, as alleged against Applicant, and has therefore, contended that medical certificate itself falsifies case of the prosecution.

2. Learned APP on the other hand, referred to report lodged by father of the victim, victim's statement and statement of friends who were all together at the time of incident since they had assembled on the ground for flying kite.

3. Perusal of complaint establishes involvement of Applicant to have committed unnatural sex on a boy, aged 9 years. Contents of this document are fully corroborated with statement of victim and by statements of his friends who are all minor boys, namely Akash, Abhishek, Ganesh, Abhishek Naikwadi, who had stated that Applicant forcibly took victim to a room adjoining to the ground when all of them were present for flying kite and has further stated that Applicant on extending threats to minor committed unnatural intercourse.

4. Having considered statements as aforesaid, even in the absence of any injuries on the private part of victim, since Applicant's involvement is prima-facie established, no case is made out for grant of bail.

5. Applicant, however, is of young age, hence following order is passed:

- (i) Application is rejected.
- (ii) Learned Special Court, who is seized with charge-sheet in the present crime, being C.R. No. 434 of 2017, registered by Jodbhavi Peth Police Station shall make an endeavour to decide trial expeditiously within one year from the date of framing the charge.

Sd/-  
[P. N. DESHMUKH, J.]

Vinayak Halemath