

Anand

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

BAIL APPLICATION NO. 310 OF 2018

Mukesh Mangilal Balotiya .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Ashokkumar Dubey, Advocate, for the Applicant
Mr. M. G. Patil, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 04.04.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 251 of 2016 registered with the Nehru Nagar Police Station, Mumbai, for the alleged offence punishable under Section 377 of the Indian Penal Code and under Sections 4, 8 & 12 of the Protection of Children from Sexual Offences Act (for short 'POCSO' Act).

3. Perused the charge-sheet, in particular the statement of the survivor aged six years. A perusal of the statement of the survivor aged

six years shows that she had gone out to play and was standing outside a fire cracker shop when the Applicant called her and told her that he would give her fire crackers. Pursuant thereto, the Applicant took the survivor to a garden and sexually assaulted her. Although, it is contended by the learned counsel for the Applicant that there are some contradictions and inconsistencies in the statement of the Complainant (father of the survivor) and the survivor, the same are minor. It is pertinent to note that the statement of the survivor and the history given by her to the Doctor are consistent.

4. Considering the serious allegations and *prima facie* material as against the Applicant, this is not a fit case to enlarge the Applicant on bail. Hence, the Application stands rejected.

5. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)