

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

BAIL APPLICATION NO. 298 OF 2017

Mr. Shamsuddin Mohammed Kazi & Anr. ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

Mr. D.B. Shukla for the Applicant.

Mrs. A.A. Takalkar, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 12th JANUARY, 2018

P.C.:

. This is an application under Section 439 of Cr.PC. for bail in C.R. No. I-417 of 2015 registered with Kopar Khairane Police Station, New Bombay under Sections 376 and 506 of the Indian Penal Code read with Section 4 of the Protection of Children from Sexual Offences Act, 2012.

2 It is the case of the prosecution that Applicant No.1 committed sexual assault on the victim girl who was aged about 5 years on the date of incident and the Applicant No.2 being his son associated him in doing so. During the course of investigation, the Applicants have been arrested on 18.12.2015 and since then they are in jail.

3 Heard learned Counsel for the Applicants and the learned APP. Perused the charge-sheet.

4 The statement of victim girl has been recorded under Section 164 of Cr.P.C. by the learned Judicial Magistrate First Class, Vashi on 18.12.2015. In her statement, said minor child has stated that the Applicant No.1 has committed an act of fingering with her.

5 The learned Counsel for the Applicants submitted that there was on going dispute between the Applicants on one side and the parents of the victim girl on the other side over throwing of garbage by the parents of the victim girl and therefore, the Applicants have been falsely implicated in the present crime.

6 Prima facie, I find substance in the said statement. It further appears from the statement of victim that the said victim girl was tutored to give the said statement. Apart from the said fact, investigation of the present crime is already completed and the Applicants are in jail for last more than 2 years.

7 In view of the above, the Applicants can be released on bail.

Hence, the following order:

i) Applicants be released on bail in C.R. No. I-417 of 2015 registered with Kopar Khairane Police Station, New Bombay on their furnishing PR bond of Rs.15,000/- each with one or two separate solvent local sureties in the like amount.

ii) After their release from jail, the applicants shall attend concerned Police Station on every first Monday of the month between 11.00 a.m. to 2.00 p.m.

- iii) The applicants shall also attend all dates before the Trial Court.
- iv) The Applicants are permitted to furnish cash bail for a period of 4 weeks from the date of their actual released on jail and during the said period, they shall comply with the procedure of submitting sureties.
- v) The Applicant shall not tamper with the evidence and/or pressurize or threaten the prosecution witnesses.
- vi) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)