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

CRIMINAL BAIL APPLICATION NO.685 OF 2018

Sandeep Ramkumar Gautam

...Applicant

Versus

State of Maharashtra

...Respondent

Mr.D.G.Mishra, for the Applicant.

Ms.J.S.Lohokare, A.P.P for the Respondent-State.

PI – Ms.A.A.Satavase, Powai Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 21st MARCH, 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.164 of 2017 registered with the Powai Police Station, Mumbai, for the alleged offences punishable under Sections 354(A), (B) of the Indian Penal Code and under Sections 8, and 12 of Protection of Children from Sexual Offences Act. It appears that

subsequently Sections 376 and 377 of Indian Penal Code and Section 4 of Protection of Children from Sexual Offences Act came to be added.

3. Perused the charge-sheet. According to the prosecution, the applicant, aged 19 years, sexually exploited the survivor, aged 6 years, when she was alone at home. The survivor, aged 6 years has given details of the sexual assault on her by the applicant in her statement recorded under Section 161 of Code of Criminal Procedure. It is informed that the statement of the survivor under Section 164 of Code of Criminal Procedure is also recorded. Although learned counsel for the applicant submitted that there is discrepancy as to who opened the door, whether it is the applicant or the survivor, nothing turns on the same, as the fact remains that the applicant was seen in the company of the survivor when the complainant i.e mother of the survivor reached home. It is also evident that the applicant fled from the spot when questioned by the complainant. The history narrated by the mother of the survivor to the doctor on 14th April, 2017 is also consistent with the statement of the victim girl.

4. Considering the fact that the survivor was only 6 years of age

and the applicant seeing the survivor alone at home, took advantage of the same, sexually assaulted her. Considering the serious allegations as against the applicant, this is not a fit case to enlarge the applicant on bail.

5. Accordingly, the application for bail is rejected and disposed of as such. However, the trial of the applicant is expedited.

6. It is made clear that the observations made herein are *prima facie* for deciding the aforesaid application, and the learned Judge shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)