

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 745 OF 2018

Faruq @ Akram Abdul Razzak Kazi	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Nitin Pradhan, i/b S. P. Khot, for the Applicant.
Mr. M. G. Patil, APP for the State/Respondent.
Ms. Anjali Wani, PSI, Mahim Police Station, Mumbai.

CORAM: A. S. GADKARI, J
DATED: 14th JUNE, 2018

PC:-

1. This is an application under Section 439 of Cr.P.C. for bail in CR No.311 of 2017 dated 25th October, 2017 registered with Mahim Police Station, Mumbai, under Sections 376(2), 323, 324, 506 r/w 34 of Indian Penal Code and Sections 6, 8 and 12 of Protection of Children from Sexual Offences Act, 2012.
2. Heard the learned Counsel for the Applicant and the learned APP. Perused the charge-sheet.

3. The prosecutrix in the present case was aged about 16 years on the date of lodgement of the crime and therefore in consonance with the provisions of Section 228(A) of IPC and 33(7) of POCSO Act, the detailed narration of facts mentioned in the FIR and other relevant statements of witness disclosing the identity of the prosecutrix is hereby avoided.

4. The first information report dated 25th October, 2017 was lodged by the minor prosecutrix herself with the Mahim police station alleging that the applicant is her elder uncle. Her father and the applicant were convicted in a murder case and whenever the applicant used to come on parole leave at home, he used to sexually assault the prosecutrix. This assault was continued from when the applicant was aged about 7 years up to her attaining the age of 13 years. It is alleged that the prosecutrix informed the said fact to her aunt (wife of applicant), however, she did not believe in the version of the prosecutrix and in turn further assaulted her with a burning candle.

During the course of investigation the applicant came to be arrested on 25th October, 2017 and after completion of investigation police have submitted charge-sheet.

5. The record indicates that the statement of prosecutrix under Section 164 of Criminal Procedure Code has been recorded by the Metropolitan Magistrate, 15th Court, Mazgaon, Mumbai, wherein she has stated that, she was interested in a boy and she informed the said fact at home. Due to which the applicant used to assault her. On a particular day the applicant assaulted her severally and therefore she went to the police station and lodged the present false crime against the applicant. There is a report submitted by the Probation Officer, Unit 5, dated 15th November, 2017, wherein the said Officer after analysing the conduct of the prosecutrix has also stated the same fact.

6. In view of the above, the applicant can be released on bail.

Hence the following order.

(i) The applicant be released on bail in CR No.311 of 2017 dated 25th October, 2017 registered with Mahim Police Station, Mumbai,

on his furnishing P.R. bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

(ii) After his release from jail, the Applicant is directed to attend the Mahim Police Station on every first Monday of the month between 11.00 am. and 1.00 pm. till the conclusion of investigation.

(iii) The Applicant shall attend all the dates before the Trial Court.

(iii) The Applicant shall not contact the prosecutrix and shall not tamper with the evidence and/or influence the prosecution witnesses.

7. Application is allowed in aforesaid terms.

[A. S. GADKARI, J.]