

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 1169 OF 2018**

Kamlesh Amrutlal Rana

....Applicant.

Vs.

State of Maharashtra

....Respondent.

Mr. Arun Rajput for the Applicant.

Smt. Rutuja Ambekar APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.**DATE : 19th JUNE, 2018.****P.C.:-**

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No.658 of 2017 dated 2nd October, 2017 registered with Dindoshi Police Station, Mumbai under Sections 354, 354(A), 324, 504, 506, 342 of the Indian Penal Code, and Section 8 of the Protection of Children from Sexual Offences Act, 2012, (*“the POCSO Act”*) now culminated into Sessions Case No.67 of 2018.

2 Heard the learned counsel appearing for the Applicant, the learned APP. Perused the charge sheet.

3 The prosecutrix was aged about 13 years on the date of lodgment of the crime and therefore, with a view to protect her identity and in consonance with the provisions of Section 228(A) of

the Indian Penal Code and Section 33(7) of the POCSO Act, the detailed narration of the facts mentioned in the first information report and in the statement of the victim girl is hereby avoided.

4 The first information report is lodged by the mother of the prosecutrix alleging that on 2nd October, 2017 at 5.00 a.m. when her daughter aged about 13 years had been to the nearby public toilet the Applicant followed her. After her daughter went into the toilet block, the Applicant closed the door of the said toilet and inappropriately touched her. When the first informant had been to the toilet, she saw that the Applicant and the prosecutrix coming out of the said toilet block and the prosecutrix was weeping profusely. When she confronted about it with the Applicant, he with a sharp edged weapon assaulted her and ran away from the scene of offence.

During the course of investigation the Applicant came to be arrested on 2nd January, 2018 and after completion of investigation, the police have submitted charge sheet.

5 The learned counsel appearing for the Applicant submitted that the first informant i.e. the mother of prosecutrix is in habit of lodging false complaints against the people residing in the said vicinity with similar type of allegations. That, a crime was lodged by the said

informant on 6th January, 2011 with Dindoshi Police Station under Section 354, 506 r/w 34 of the Indian Penal Code against one Mr. Mahabali Gupta and others for outraging the modesty of the first informant. That on 8th April 2017 the informant had lodged a crime against one Mr. Nagesh Gaikwad, a resident of the same locality with similar allegations under Section 354 (A) and (D) of the Indian Penal Code and under Sections 8 and 12 of the POCSO Act.

He further submitted that, on 4th May, 2017, there were altercations between the Applicant and the first informant and at that time the first informant had threatened the Applicant of implicating him in a false crime. Applicant, thereafter, immediately lodged one non-cognizable offence bearing No. 1531 dated 4th May, 2017 with Dindoshi police Station under Sections 504 and 506 of the IPC.

He further submitted that, the threat administered by the first informant has transformed into reality. That, the first informant on 2nd October 2017, has lodged the present crime alleging the facts stated in the aforesaid paragraph. He therefore, submitted that the Applicant has been falsely implicated in a false crime and therefore, he may be released on bail.

6 A perusal of charge sheet would indicate that the

prosecutrix, in her statement given to the police under Section 161, has narrated the facts as mentioned in the foregoing paragraph. However, while narrating the history to the Medical Officer, it is stated that the Applicant, apart from molesting her, has also committed penetrative sexual assault on her. The medical report submitted by the concerned Authority is silent about the alleged penetrative sexual assault against the prosecutrix.

7 After perusing the entire record minutely, this Court is of the considered view that, there is substance in the submissions made by the learned counsel for the Applicant. It further clearly appears that in furtherance of the threat given by the mother of the prosecutrix i.e. the first informant herein on 4th May, 2017, belatedly the present crime is registered against the Applicant. Prima facie, it appears that the present crime as registered against the Applicant, is a false case.

8 In view thereof, the Applicant is entitled to release on bail.

Hence, the following order.

- a) The Applicant be released on bail in CR No.658 of 2017 dated 2nd October, 2017 registered with

Dindoshi Police Station, Mumbai now culminated into Sessions Case No.67 of 2018, on his furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount.

- b) After his release from Jail, the Applicant shall attend the concerned Police Station on every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- c) The Applicant shall attend all the dates before the Trial Court unless precluded on medical reasons.
- d) The Applicant is permitted to furnish cash bail of Rs.15,000/- till he completes the procedure for furnishing local sureties.
- e) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

9 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)