

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1322 OF 2018

Nehal Aulad Khan

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. Ganesh Gole I/by Ateet Shirodkar for the Applicant.

Mr. M.G. Patil APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 1st AUGUST, 2018.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. I-732 of 2017 dated 16th November, 2017 registered with Tulinj Police Station, Nalasopara District Palghar, under Section 376 of the Indian Penal Code and Sections 4 and 6 of the POCSO Act, 2012, now culminated into Special Case No. 14 of 2018.

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

3 The age of the prosecutrix was about 6 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.

It is the prosecution case that, the Applicant being a neighbor of the prosecutrix, on the date and time of the incident, called her at his residence and attempted to commit rape on the prosecutrix. When the prosecutrix started crying, her sister came at the place and knocked the door, upon which, the Applicant released the prosecutrix. The prosecutrix informed the said fact to her mother and thereafter, the present crime is registered.

During the course of the investigation, the Applicant came to be arrested on 3rd December 2017 and after completion of investigation, police have submitted charge sheet.

5 Perusal of the first information report and the statements of the prosecutrix recorded under Sections 161 and 164 of the Code of Criminal Procedure would indicate that, it was an attempt by the

Applicant to commit an offence as contemplated under Section 376 of the Indian Penal Code, as it is stated that the Applicant had touched his private part with the private part of the prosecutrix. The Investigation of the present crime has already completed and the police have submitted charge sheet.

6 The learned APP submitted that, the Applicant is the neighbour of the prosecutrix, if he is released on bail, he may pressurize the witnesses and/or tamper with the evidence. The said apprehension can be taken care of by imposing stringent conditions.

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

Hence, the following order.

- a) The Applicant be released on bail in CR No. I-732 of 2017 registered with Tulinj Police Station, Nalasopara District Palghar, now culminated into Special Case No. 14 of 2018, on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- b) Before his release from Jail, the Applicant shall submit the documents of his prospective residence with the Tulinj Police Station, Nalasopara, District

Palghar.

- c) After his release from jail, the Applicant shall not enter the jurisdiction of Tulinj Police Station, Nalasopara, District Palghar, except for marking his presence on the stipulated dates as directed hereinafter.
- d) After his release from Jail, the Applicant shall attend Tulinj Police Station, Nalasopara, District Palghar, on every alternate Monday between 11.00 a.m. and 1.00 p.m. initially for a period of six months and thereafter on every first Monday of the month between 11.00 a.m. and 1.00 p.m. till conclusion of the trial.
- e) It is made clear that, the Applicant after marking his presence at the Tulinj Police Station, Nalasopara, District Palghar, shall immediately withdraw himself from the jurisdiction of Tulinj Police Station, Nalasopara, District Palghar, without any excuse.

- f) The Applicant shall attend all the dates before the Trial Court unless precluded for medical reasons.
- g) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

8 Application is allowed in the aforesaid terms.

S S
Mashalkar

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by S S Mashalkar
Date: 2018.08.09
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(A.S. GADKARI, J.)