

Dond

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

BAIL APPLICATION NO.1519 OF 2018

Mohammed Mumtaz Ahmed

..Applicant

Vs

The State of Maharashtra

..Respondent

Mr. Jehangir Khajotia for applicant.

Ms. J.S. Lohokare, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 16th July 2018.

P.C.:

1] This is an application under Section 439 of the Cr. P.C for bail in CR No. 34 of 2018 dated 25.37.2018 registered with Colaba Police Station, Mumbai under sections 354(A) (D) of the Indian Penal Code and under sections 8 and 10 of Protection of Children From Sexual Offences Act (POCSO Act).

2] Heard the learned Counsel for the applicant and the learned APP for the State. Perused the record of investigation.

3] The prosecutrix was aged about 10 years on the date of alleged offence and with a view to protect her identity and in consonance with the

provisions of Section 228(A) of the Indian Penal Code and under Section 33(7) of the Protection of Children From Sexual Offences Act (POCSO Act), the detailed narration of the facts mentioned in the first information report, statement of victim girl and other statements disclosing her identity are hereby avoided.

4] The alleged incident occurred on 25.3.2018 at about 9.15 p.m in a moving vehicle. It is the prosecution case that, the applicant was travelling from taxi in which the victim girl and her family members were also travelling. As there was no sufficient space inside the said taxi, the applicant asked victim girl to seat on his lap in the taxi at CST railway station on their way to Colaba. It is alleged that, in the said moving taxi, the applicant touched inappropriately to the victim girl and also touched her private part. After the victim got down at Colaba, the present crime was registered against the applicant by the mother of the victim girl.

5] The learned Counsel for the applicant submitted that, with a view to extort money from the applicant, the present crime has been registered against him. He submitted that, the allegations as made are improbable in nature and the alleged incident took place when the taxi driver was sitting just next to the prosecutrix. He submitted that a bogus

and false crime has been lodged against the applicant.

6] After perusing the allegations made in the first information report and the statement of the victim girl, the same appears to be an exaggerated version, as the said alleged offence has taken place in a running taxi from CST railway station to Colaba where the family members of the victim girl were sitting on the back seat of the taxi. The record indicates that, the statement of the taxi driver who was driving the said taxi on the date of incident was not recorded by the police.

7] After taking into taken into consideration the material available on record and the allegations against the applicant coupled with the fact that the police have completed investigation and submitted chargesheet, the applicant can be released on bail

Hence, the following Order:

i] Applicant be released on bail in CR No. 34 of 2018 registered with Colaba Police Station, Mumbai on his furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount.

ii] After his release from jail, the applicant shall attend the Colaba Police Station, Mumbai on every first Monday of the month between 11.00 a.m and 1.00 p.m.

iii] Applicant shall attend all the dates before the Trial Court unless precluded for medical reasons.

iv] Any two consecutive defaults in complying with the aforestated conditions will attract the provisions of cancellation of bail.

8] Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)