

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

BAIL APPLICATION NO. 1568 OF 2018

Kader Adam Badiwal

... Applicant

Vs.

State of Maharashtra

... Respondent

...

Mr. Sujit Shelar for the applicant.

Mr. A.R. Kapadnis, APP for the Respondent-State.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 6th OCTOBER, 2018.

P.C.

1. This is an application for bail in connection with C.R. No. 52 of 2018 registered with R.A.K. Marg Police Station for offences punishable under Sections 377, 506 of Indian Penal Code and Sections 4, 6 and 8 of POCSO Act. The applicant was arrested on 21st February, 2018.

2. The complaint was lodged by the father of the victim boy. The victim boy is aged about 12 years. On 20th February, 2018, the victim was crying and told the complainant that Kader Chacha is residing in their chawl is not a good person and he has committed wrong act with him. The complainant took the victim in confidence and thereby the victim disclosed the acts committed

by the accused. It was stated that four days prior to 20th February, 2018, the accused took the victim boy near Shiwdi Railway Station behind the railway track near the bushes and removed his cloths as well as forcibly committed anal intercourse with him. He also put his private part in the mouth of the victim. He was threatened by him. Victim also disclosed that earlier also on three to four occasion similar act was committed by the accused. Complainant tried to find out the whereabouts of the accused, but he was not found. Hence, FIR was lodged on 21st February, 2018. Accused was arrested. Statement of various witnesses were recorded. The statement of the victim was also recorded. On completing the investigation chargesheet is filed.

3. Learned counsel for the applicant submitted that there is dispute between the applicant and the family of the victim and thus he has been falsely implicated in this case. It is submitted that there is improvement in the statement of the victim recorded by the police. He submitted that considering the alleged act attributed by the victim to the accused, there should have been medical evidence to corroborate the version of the victim. Victim was examined within four days of the alleged incident, however, there is no medical evidence to support alleged act committed by

the accused. Applicant is in custody from the date of arrest. Investigation is completed and chargesheet has been filed.

4. Learned APP submitted that victim boy aged about 12 years has narrated the incident to his father and thereafter FIR was lodged. In the statement of the victim he has narrated the incident about attributed to the overt act to the applicant. Applicant has committed serious crime. It is therefore submitted bail may not be granted to the applicant. It is also submitted that matter has been posted for framing of charge.

5. I have gone through the complaint as well as statement of the victim. Both these statements refers to heinous act committed by the applicant. Victim boy was sexually assaulted by the accused and had allegedly committed the offence under Section 377 of Indian Penal Code as well as other offences. The submission of the learned counsel for the applicant is that medical evidence does not support and applicant has been falsely implicated in this case will have to be considered at the appropriate stage. The victim has clearly stated that accused have committed annal intercourse and he was subjected to sexual assault on three to four occasions.

6. Taking into consideration the nature of material against the applicant, bail cannot be granted to the applicant. Application

stands rejected.

7. However, considering the fact that case is listed for framing of charge and taking into consideration that the applicant is in custody from 21st February, 2018, the trial Court is directed to conclude the trial expeditiously. The accused shall cooperate with the Court in expediting the trial. Prosecution intends to examine 10 to 12 witnesses, therefore, trial Court is directed to conclude the trial within a span of one year from the receipt of this order.

(PRAKASH D. NAIK, J.)

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by Sachidanand
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Date:
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