

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1570 OF 2017

Ravi Manik Pawar. ... **Applicant.**
V/s.
The State of Maharashtra. ... **Respondent**

.....
Mr. Aniket Nikam i/b Mr. Ashish Satpute, Advocate for the Applicant.
Mr. S. V. Gavand, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 15th FEBRUARY 2018.

P.C. :

1. By virtue of order dated 6th September, 2017, passed by Co-ordinate Bench of this Court (Coram: A.S. Gadkari,J) this application is being decided by this Court.

2. By this application, applicant/accused in Crime No. 210/2015 registered with Warje Malwadi Police Station for offences punishable under Sections 363, 307, 109 r.w. 34 of I.P.C. as well as under Sections 4, 8, 5 (i),(j),(m),(r) and 6 of The Protection of Children From Sexual Offences Act, 2012 (hereafter referred to as POCSO Act) is praying for releasing him on bail pre-

pendency of the trial.

4. Heard the learned advocate for the applicant/accused. He argued that evidence against the present applicant is only in the form of statements of Roshan Thakur and Sonu Thakur, which are disclosing post event conduct. Supplementary statement of both these witnesses do not show that they had seen the present applicant at the time of witnessing the post event conduct of the co-accused. The learned Additional Public Prosecutor opposed the application by contending that the crime in question is serious.

5. I have carefully considered the rival submissions and also perused the entire charge-sheet produced on record by the learned advocate for the applicant and not disputed to be incomplete by the learned Additional Public Prosecutor.

6. The minor boy went missing from his house at Warje Malwadi area of Pune on 15th July, 2015. His parents and relatives searched for him. Ultimately witnesses named Roshan Thakur and Sonu Thakur noticed the missing minor boy with an aged couple. Said couple handed over the victim to both these witnesses and informed them that they are not knowing whose boy he is.

Witnesses Roshan Thakur and Sonu Thakur then reached the victim boy to his parents who were searching him. At that time it was noticed that the victim boy was sexually assaulted. When witnesses Roshan Thakur and Sonu Thakur were returning after giving custody of the minor boy to his parents, they were accosted on the way by three young persons and those persons threatened both these witnesses not to disclose anything about the victim boy. This is the evidence against accused persons which is primarily relied by the prosecution.

7. Supplementary statement of Roshan Thakur and Sonu Thakur came to be recorded on 17th July, 2005. Five accused persons were shown to both these witnesses. They identified four accused persons to be the same persons who accosted them after delivering custody of the child to his parents. Both these witnesses have not identified the present applicant as the person who after incident in question had threatened them.

8. Except this no other evidence against the present applicant in the crime in question is pointed out. Investigation of the crime in question is over and the charge-sheet also filed long

back. Considering this nature of evidence against the present applicant, his further pre-trial detention is not warranted. Therefore, the following order ;

ORDER

(I) The application is allowed.

(II) The applicant/accused in Crime No.210/2015 registered with Warje Malwadi Police Station for offences punishable under Sections 363, 377, 307, 109 r.w. 34 of I.P.C. as well as under Section 4, 8, 5 (i) (j), (m), (r) and 6 of The Protection of Children From Sexual Offences Act be released on his executing P.R.Bond in the sum of Rs.25,000/- and on furnishing surety in the like amount.

(III) As a condition of this order, the applicant/accused should not commit any offence in future and he should co-operate the leaned Trial Court in expeditious

disposal of the trial in which the co-accused is in jail.

(IV) The applicant should not tamper prosecution evidence in any manner.

(V) The application is disposed of accordingly.

(A.M.BADAR J.)