

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 1684 OF 2018**

Rocky Marshal Fernandes

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Ms. Anjali Patil for the Applicant.

Ms. A.A. Takalkar APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 13th AUGUST, 2018.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 129 of 2018 dated 29th March, 2018 registered with Vakola Police Station, Mumbai under Sections 376, 354 of the Indian Penal Code and Sections 6, 10, 12 of POCSO Act, now culminated into POCSO Special Case No. 275 of 2018.

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

3 The prosecutrix was aged about 2 years and 6 months 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 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/victim girl. The Applicant is the neighbour of the prosecutrix. It is the allegation against the Applicant that, on the date and time of incident, the Applicant called the prosecutrix at his residence, partially removed her pant and touched her private part. The mother of the prosecutrix when took search of the prosecutrix, she saw the alleged incident from the window of the said house. The neighbours called the police and the Applicant was immediately apprehended at the scene of offence.

After completing the necessary formalities, the Applicant came to be arrested on 30th March, 2018 and after completion of investigation the police have submitted charge sheet.

5 The statement of the prosecutrix has been recorded by a lady police officer and it is consistent with the statement of the first informant. The learned counsel for the Applicant submitted that, the Applicant is suffering from learning disability and was earlier taking treatment for psychological disorder.

6 May that, as it may. After taking into consideration the allegations made against the Applicant and the fact that, the investigation of the present crime is completed and the age of the Applicant, this Court is of the opinion that the Applicant can be released on bail.

Hence, the following order.

- a) The Applicant be released on bail in CR No. 129 of 2018 registered with Vakola Police Station, Mumbai, now culminated into POCSO Special Case No. 275 of 2018, on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- b) After his release from jail, the Applicant shall not enter the jurisdiction of Vakola Police Station, Mumbai, except for marking his presence on the stipulated dates as directed hereinafter.
- c) After his release from Jail, the Applicant shall attend the Vakola Police Station, Mumbai, on first Monday of the month between 11.00 a.m. to 1.00 p.m. till conclusion of the trial.

- d) Before his release from jail, the Applicant shall submit the documents of his prospective residential address with the Vakola Police Station.
- e) The Applicant shall attend all the dates before the Trial Court unless precluded for medical reasons.
- f) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

7 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)

S S Mashalkar Digitally signed by S S Mashalkar
Date: 2018.08.20 17:52:50 +0530