

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 2370 OF 2018**

Wasim @ Mohasin Abdul Karim Kazi

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. V.V. Purwant for the Applicant.

Smt. Rutuja Ambekar APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 4th DECEMBER, 2018.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 106 of 2018 dated 24th February, 2018 registered with Jail Road Police Station, Solapur under Sections 376(2)(I)(N), 366, 504, 506, 109 of the Indian Penal Code and under Sections 4, 8 and 12 of the Protection of Children From Sexual Offences Act, 2012 (POCSO Act), now culminated into Sessions Case No. 165 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 15 years on the date of lodgment of the crime and 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 It is the prosecution case that, the prosecutrix was taking education in 10th Standard. That, the Applicant was her friend. The prosecutrix was residing with her aunt and grand parents at Solapur. Due to some altercations and misunderstanding, the prosecutrix earlier left her parents house and had been to Solapur Railway Station, where the co-accused Smt. Kamal Pawar met her and by giving assurance that she will take care of her, took the prosecutrix to her native place. At the said place, the son of Smt. Kamal Pawar, namely Karan Pawar established forcible sexual relationship with the prosecutrix. Smt. Kamal Pawar was pestering the prosecutrix to perform marriage with her son Karan Pawar however, the prosecutrix refused to do the same.

5 That, subsequently the prosecutrix escaped from the custody of Smt. Kamal Pawar and again reached to Solapur. At Solapur, she met the Applicant. That, the Applicant and the prosecutrix went to reside at the house of his friend. The prosecutrix

attended her school on the next date wherein, the school teacher informed the presence of the prosecutrix to her family members and subsequently she was taken to the police station and the present crime is thereafter registered.

6 The statement of the prosecutrix has been registered by woman Police Sub-Inspector, attached to Jail Road Police Station, Solapur in presence of a Member of Child Welfare Committee, Solapur on 7th March 2018. In her statement, the prosecutrix has exonerated the Applicant from commission of offence, as contemplated under Section 376 of the Indian Penal Code and/or under Section 4 or 8 of the POSCO Act. The prosecutrix has categorically stated that, when she along with other family members of the friend of the Applicant slept in their common room, the Applicant did not exceeded limits i.e. the Applicant did not keep physical relations with her.

7 The learned counsel appearing for the Applicant submitted that, there are no antecedents at the discredit of the Applicant.

The Applicant is in jail since 28thFebruary, 2018 and the Investigation of the present crime *qua* the Applicant has already been completed by the Police and the Police have submitted charge-sheet. No fruitful purpose will be served by further keeping the Applicant in

incarceration.

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

Hence the following order:-

- a) The Applicant shall be released on bail in CR No. 106 of 2018 dated 24th February, 2018 registered with Jail Road Police Station, Solapur on his furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount.
- b) After his release from Jail, the Applicant shall attend the concerned Police Station on every first Monday of every month between 11.00 a.m. and 2.00 p.m.
- c) The Applicant shall attend all the dates before the Trial Court unless precluded on medical reasons.
- d) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

10 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)