

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

CRIMINAL BAIL APPLICATION NO. 2430 OF 2018

Sudhakar Subramaniam Perumal	... Applicant
Vs.	
State of Maharashtra	... Respondent

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Mr. Manoj R. Gawd for the applicant.
Ms. A.A. Takalkar, APP for the Respondent-State.
Mr. Ramchandra Sawant, Police Inspector, Aarey Police Station is present.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 1st NOVEMBER, 2018.**

P.C.

1. This is an application for bail in CR No. 108 of 2018 registered with Aarey Police Station for the offences punishable under Sections 363, 354, 376 of Indian Penal Code and Sections 8, 4 and 12 of POCSO Act. First Information Report was lodged on 4th May, 2018. Applicant was arrested on 6th May, 2018.

2. Prosecution case is that complainant approached police station on 4th May, 2018 to lodge missing complaint of his daughter. On the next date, the victim girl and the applicant were brought to the Police Station. The statement of the victim girl was recorded. Initially, the complaint was registered for offence

punishable under Section 363 of Indian Penal Code and subsequently, the other penal provisions were added.

3. Learned advocate for the applicant submitted that there is no evidence to constitute the offence under Section 376 of Indian Penal Code. The applicant has been falsely implicated in this case. The victim has attributed overt act to the applicant under the pressure of her parents. The victim and the applicant were in relationship. The applicant is aged about 19 years and the age of the victim is 15 years. It is further submitted that applicant is in custody from the date of arrest. Investigation is completed and chargesheet has been filed.

4. Learned APP submitted that the victim was minor at the time of alleged offence. The applicant is involved in serious offence. The statement of the victim was recorded under Section 161 of Code of Criminal Procedure in which she has narrated the incident by stating that the accused was forcing her to remove the clothes. Similar version is reflected in the statement under Section 164 of Code of Criminal Procedure.

5. I have perused the First Information Report and the other documents. The statement of the victim recorded on 6th May, 2018 refers to applicant as her boyfriend. She has also stated that

her family is aware that applicant is her boyfriend. It is also stated that she is accompanied applicant on the date of incident and both of them went to forest. In the statement under Section 164 of Code of Criminal Procedure she also has reiterated the same version. However, on perusal of both the statements it can be seen that victim has not stated that there was physical relationship between them. On perusal of the history given to the Doctor during the medical examination she has stated that she knows the accused and she is in relationship with the accused since one year. The documents indicated that victim is minor, however, it appears that they were acquainted with each other and were friends. The medical evidence also does not support the charge under Section 376 of Indian Penal Code. The medical case paper mention that there was no history of sexual intercourse. Taking into aforesaid circumstances, the case for grant of bail is made. Investigation is already completed and chargesheet has been filed. Further detention of the applicant is not necessary. Hence, I pass the following order.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in C.R. No. 108 of

2018 registered with Aarey Police Station on furnishing P.R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;

- iii. Applicant is permitted to furnish cash security in the sum of Rs.20,000/- for a period of four weeks;
- iv. Applicant shall attend the concerned Police Station once in a month on First Saturday of every month between 10.00 a.m. to 12.00 noon till further orders;
- v. Applicant shall not enter into the area where the complainant and her family members resides;
- vi. Applicant shall not tamper with the evidence;
- vii. Applicant shall attend the trial Court on the date of hearing regularly unless exempted by the Court for some reasons;
- viii. Parties to act on an authenticated copy of this order;
- ix. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)

Sachidanand
Kuttan Nair

Digitally signed
by Sachidanand
Kuttan Nair
Date: 2018.11.02
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