

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

BAIL APPLICATION NO.2338 OF 2017

Iqbal Islamuddin Ansari .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. Ajay Kumar Upadhyay, Advocate for the Applicant.
Mr.A.R. Patil, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATED : APRIL 13, 2018.

P.C. :

This is the second application for bail. The earlier application was disposed of by order dated 23rd June, 2017. The said application was allowed to be withdrawn with liberty to prefer a fresh application if the trial is not over within a period of six months.

2 Applicant is arrested on 9th January, 2017 in connection with C.R.No.24 of 2017, registered with Sakinka Police Station, Mumbai, for the offences punishable under Section 354, 354(a) and 506 of IPC and Section 8, 12 of the Protection of Children from Sexual Offences Act (for short

“POCSO Act”). At the relevant time, the victim was a school going child aged about 12 years. In her statement dated 9th January, 2017, she has narrated the acts amounting to outraging modesty allegedly committed by the applicant. It is alleged that the applicant was the owner of a Bakery. The victim and other students used to visit the said Bakery for purchasing sweets. In December 2015, the victim was called at the Bakery by the accused and by using some substance on the handkerchief. The victim was forced to smell the same which resulted into unconsciousness and, thereafter, the accused has committed the alleged objectionable acts of outraging modesty. The investigation was completed and the charge - sheet was filed.

2 Learned advocate for the applicant submitted that this application is being preferred in view of the liberty granted to the applicant to prefer a fresh application in case the trial does not conclude within a period of six months. It is submitted that the trial is not yet over. The applicant is in custody from 9th January, 2017. The applicant has been falsely implicated on account of enmity. The allegations made by the victim are imaginary and difficult to accept as the earlier incident had allegedly occurred in the year 2015 and the last incident is of the

year 2017. It is also submitted that the applicant is the only earning member of the family. His mother has passed away while he was in custody. He submitted that on any terms and conditions, bail may be granted to the applicant.

3 Learned APP submitted that the accused is involved in a serious crime. He is being prosecuted for the offences outraging modesty and the offences under the POCSO Act. There is no reason to disbelieve the victim who is aged about 12 years. The grounds raised by the applicant can be considered at the time of trial. In the event bail being granted to him, he may threaten the witnesses who are residing in the same area. Learned APP, on instructions, submitted that the trial has already commenced and two witnesses viz. the victim and her mother have been examined. There are about total 16 witnesses on which the prosecution is relying in support of its case. The concerned prosecutor would take a decision as to how many witnesses are to be examined. It is submitted that since the trial has already commenced, it would be concluded within a reasonable time.

4 I have perused the documents on record. The statement of the victim depict overact to the applicant and at this

stage it is difficult to disbelieve her version. The grounds raised by the applicant can, at the most, be considered at the time of trial. It is also noted that the trial has already commenced and two prime witnesses are examined by the prosecution. In this circumstances, no case for bail is made out. However, it is expected that the trial Court would conclude the trial expeditiously and would endeavour to complete the same within a period of four months from the date of receipt of copy of this order.

5 Hence, I pass the following order:

:: ORDER ::

- (i) Criminal Bail Application No.2338 of 2017, is rejected;
- (ii) The trial Court is directed to conclude the trial expeditiously and in any event within a period of four months from the date of receipt of this order;
- (iii) Criminal Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)