

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

**BAIL APPLICATION NO. 2453 OF 2018**

Shahrul Islam Abdul Vahid

Lashkar alias Shahrukh

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Rahul Kadu a/w. Mr. Kuldeepsingh Khamgre a/w.

Mr. Sushant Tayade I/b. M/s. S.K. Legal for the applicant.

Ms. Pallavi N. Dabholkar, APP for the State.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.**

**DATED: 17<sup>th</sup> OCTOBER, 2018.**

**P.C.:**

. This is an application under Section 439 of Criminal Procedure Code filed by the aforesaid applicant, who has been arrested in C.R.No.235/2017 registered at Kothrud Police Station, District Pune for offences punishable under sections 376(2) (L) of the Indian Penal Code and sections 3, 4, 5(J)(ii), 5(K), 5(L), 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

2. Heard Mr. Rahul Kadu, learned counsel for the applicant and Ms. Pallavi N. Dabholkar, learned APP for the State. I have perused the

records and considered the submissions advanced by the learned counsels for the respective parties.

3. On 27/06/2017, the first informant had taken the prosecutrix, a mentally challenged girl of 16 years to Sasoon Hospital for medical examination. The sonography report revealed that she was four months pregnant. Upon inquiry, the prosecutrix informed that one boy named Shahrukh who was working in the garage used to take her to the terrace of nearby house and have forcible sexual intercourse with her. The father of the prosecutrix, therefore, lodged the FIR against the applicant, who at the relevant time was working in the nearby garage.

4. The statement of victim prima facie reveals that one boy named Shahrukh used to work in garage which is stated to be close to the house. The said boy had given her hundred rupees and had taken her to the terrace of the adjoining house and had thereafter committed rape on her. She has stated that said Shahrukh had committed rape on several other occasions.

5. It is to be noted that the prosecutrix had not given full name of the person involved in the incident. She had given the name of the

perpetrator of the crime as 'Shahrukh' and had stated that he was working in the nearby garage. It is not in dispute that the investigating agency has not established identity of the applicant by holding test identification parade. There is no prima facie material to show that any other person had seen the victim in the company of the applicant. The DNA report also states that the prosecutrix is a biological mother whereas Shahrul Islam Abdul Wahid Lashkar alias Shahrukh i.e. the applicant herein is excluded to be a biological father.

6. Considering the above facts and circumstances, in my considered view, this is a fit case for grant of bail. Hence, the Application is allowed on following terms and conditions :-

(a) The applicant who is arrested in C.R.No.235/2017 registered at Kothrud Police Station, District Pune is ordered to be released on bail on furnishing bail bonds of Rs.50,000/- (Rupees Fifty Thousand) with one or two solvent sureties in the like amount.

(b) The applicant shall report to the Senior Police Inspector of Kothrud Police Station, Pune on 1<sup>st</sup> and 3<sup>rd</sup> Monday of every month until further orders.

(c) The applicant shall furnish his permanent address and temporary address, if any, and his contact details to the concerned Court.

(d) The applicant shall not change his residential address without prior intimation to the Investigation Officer and to the concerned Court.

(e) The applicant shall not interfere with the prosecutrix or the other witnesses in any manner and shall not tamper with the evidence.

**(SMT. ANUJA PRABHUDESSAI, J.)**