

Anand

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

BAIL APPLICATION NO. 2670 OF 2017

Kalamuddin Mohammad Istiyar Ansari alias Kohil .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. S. R. Mishra, Advocate, for the Applicant
Mr. S. S. Hulke, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 06.03.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No. 613 of 2017 registered with the Ghatkopar Police Station, Mumbai, for the alleged offence punishable under Section 377 of the Indian Penal Code and under Sections 4, 8 & 12 of the Protection of Children from Sexual Offences Act (for short 'POCSO').

3. Learned counsel for the Applicant submitted that the Applicant has been falsely implicated in the said case. He submitted that

no independent witness has been examined in the said case to corroborate the statement of the Complainant and the victim girl. He submitted that even the medical evidence does not support the prosecution case. He relied on the Judgments in the case of *Chutukumar Kabarar Trivedi Vs. The State of Maharashtra* dated 23.07.2015 in Cri. Appeal No. 571 of 2015, as well as the Judgment of the Sessions Court, Delhi in *State Vs. Gaurav Jain* dated 18.02.2015 in Sessions Case No. 115 of 2013 respectively.

4. Learned APP opposed the Application.

5. Perused the papers. The Applicant is aged 20 years and the victim girl is about four and half years. A perusal of the statement of the victim girl and her mother, who is the Complainant shows, that the victim girl had gone to the house of the Applicant to fetch a pipe. It appears that when the victim girl returned home, she was afraid and when asked, disclosed to her mother that the Applicant had put his penis in her mouth. Pursuant thereto, the aforesaid complaint was lodged by the victim girl's mother. In such cases, there cannot be any eye witness, as such acts are committed behind close door. Prima facie, there is no reason for the victim girl or the Complainant to falsely implicate the

Applicant. If the Applicant is enlarged on bail, the possibility of the Applicant pressurizing the victim girl and the family cannot be ruled out. Reliance placed on the Judgments is completely misplaced and would have no application to the facts of this case.

6. Considering the material on record, this is not a fit case to enlarge the Applicant on bail. The Application stands rejected.

7. The learned Judge shall conduct the trial on its own merits uninfluenced by the withdrawal of this Application.

(REVATI MOHITE DERE, J.)