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

***CRIMINAL BAIL APPLICATION NO.2768 OF 2017***

Sachin Sakharam Chougule

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Ganesh Gole, for the Applicant.

Ms.P.N.Dabholkar, A.P.P for the Respondent-State

***CORAM : REVATI MOHITE DERE, J.***

***DATE : 5<sup>th</sup> MARCH, 2018***

**P.C. :**

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.106 of 2016 registered with the R.C.F. Police Station, Mumbai, for the alleged offences punishable under Sections 363, 354(5), 376, 376C r/w 34 of the Indian Penal Code and under Sections 4 and 6 of Protection of Children from Sexual Offences Act.

3. Learned Counsel for the applicant submitted that although the FIR was lodged by the victim's mother on 21<sup>st</sup> April, 2016, for the first time in the statement dated 28<sup>th</sup> April, 2017, the victim has disclosed the name of the applicant, as being the person who had physical relations with her. He submitted that a perusal of the victim's statement dated 28<sup>th</sup> April, 2017, would show that there was some intimacy between the applicant and the victim girl and that the relations appeared to be consensual. He submitted that SMSs' were being exchanged between the applicant and the victim girl, which were deleted later. Learned Counsel submitted that the applicant is in custody since April, 2016 and as such, he be enlarged on bail.

4. Learned APP opposed the application.

5. Perused the papers. The victim girl was about 14 years 6 months, at the time when the alleged incident of sexual assault took place. The First Informant is the mother of the victim girl, who lodged the aforesaid complaint on learning that her daughter was 3 months pregnant when she was taken for medical examination. The first informant had mentioned the name of one 'Gundi' initially, as the same was disclosed to

her by her daughter. On 14<sup>th</sup> July, 2016, the victim girl's statement was recorded, in which she disclosed the name of one Asif Mohammad Shaikh as being the person responsible, however, there was no such person by that name. On 28<sup>th</sup> April, 2017, the victim girl disclosed the name of the applicant, as being the person who sexually exploited her. The victim girl in her statement dated 28<sup>th</sup> April, 2017 has stated that in December, 2015, the applicant had physical relations with her for the first time. She has stated that whenever her parents were away and she was alone at home, the applicant (her brother-in-law) would come to her house and have physical relations with her, as a result of which, she became pregnant. Admittedly, the applicant is the brother-in-law of the victim girl, who was aged 14 ½ years at the relevant time. The DNA Report shows that the applicant is the father of the child. The applicant has abused his relations with the victim girl and had exploited her. The possibility of the applicant influencing the victim girl and tampering with the evidence cannot be ruled out.

6. Considering the aforesaid, this is not a fit case to enlarge the applicant on bail.

7. Accordingly, the application for bail is rejected and disposed of as such.

8. It is made clear that the observations made herein are *prima facie* for deciding the aforesaid application, and the learned Judge shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

**(REVATI MOHITE DERE, J.)**