

Anand

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

BAIL APPLICATION NO. 2919 OF 2017

Vanamma Hanumanta Potoor .Applicant

Vs.

The State of Maharashtra & anr. .Respondents

Mr. U. Gandhi i/b. Mr. R. Bhuta, Advocate, for the Applicant
Mr. A. A. Palkar, APP, for the Respondent Nos. 1 & 2 – State

CORAM : REVATI MOHITE DERE, J.

DATE : 26.03.2018

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. 229 of 2017 registered with the D. N. Nagar Police Station, Mumbai, for the alleged offence punishable under Section 376 of the Indian Penal Code and under Sections 4, 5(N), 6, 19 & 21 of the Protection of Children from Sexual Offences Act (for short 'POCSO')

3. Perused the charge-sheet including the statement of the prosecutrix. The Applicant is the aunt of the prosecutrix. As the

Applicant's parents had expired, the prosecutrix was residing with the Applicant. It appears that co-accused – Sabanna Budhvanta, a resident of the same village was also residing with the Applicant. It is alleged by the prosecutrix that co-accused – Sabanna had sexually assaulted her on a couple of occasions when the Applicant was not at home. She has further stated that when she informed the Applicant, the Applicant did not take any cognizance of the same. Pursuant thereto, the prosecutrix was found pregnant and abortion had to be done. The allegations as against the Applicant are that she did not take any cognizance or report the incident to the police despite having knowing that co-accused – Sabanna had sexually assaulted the prosecutrix. The Applicant is in custody since April, 2017. Investigation is complete and charge-sheet is filed.

4. Considering the role of the Applicant, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

- (i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs. 15,000/-** with one or two sureties in the like amount;
- (ii) The Applicant shall report to the investigating officer of the

concerned police station on the **first Sunday of every month** between 10:00 a. m. and 11:00 a. m. till the conclusion of the trial;

(iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The Applicant to cooperate with the conduct of the trial;

(v) The Applicant shall file an undertaking with regard to clauses (ii) to (iv), in the trial Court, within two weeks of his release;

(vi) If there are two consecutive defaults in appearing before the trial Court, the prosecution will be at liberty to apply for cancellation of the Applicant's bail;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

5. The Application is allowed in the aforesaid terms and is accordingly disposed of.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)