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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.150 OF 2019

Santosh Suresh Kalamkar ..Applicant.

V/s.

The State of Maharashtra ..Respondent.

Ms.Anjali Patil for the applicant.

Mr.A.A.A Palkar, APP for the respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATE : FEBRUARY 15, 2019

P.C.:-

Heard learned counsel for the applicant and learned APP for the State.

2. After his arrest on February 29, 2017 in crime No.76/2017 for offence punishable under sections 376(2) 354(B) and 451 of the Indian Penal Code registered with Poladpur police station, District Raigad, the applicant came to be charge-sheeted.

3. The prosecution case is, the victim girl was raped by the present applicant.

4. The submissions are, apart from the delay of four days in lodging the F.I.R., there are contradictions in the statement recorded under section 161 of the Criminal Procedure Code which are not explained. The medical evidence also does not support the case of the prosecution.

5. Learned APP opposed the claim on the ground that there is statement under section 164 of the Criminal Procedure Code of eye witness and the applicant is specifically named with a role.

6. Having considered the submission what could be noticed is, apart from delay of four days in lodging the F.I.R. there are no incriminating circumstances viz. Seizure of clothes, etc. from the applicant to infer the involvement of the applicant in the crime in question.

7. In the statement recorded under section 164 of the Criminal Procedure Code of the minor witness, the role attributed to the applicant is only to the extent of offence punishable under section 354-B of the Indian Penal Code, wherein punishment is maximum of 7 years.

8. The medical evidence, independent of above, does not

specifically connect the applicant with the alleged incident. That being so, a case for grant of bail is made out. Hence the order:-

- i) The applicant be released on bail in Crime No.76/2017 for offence punishable under sections 376(2) 354(B) and 451 of the Indian Penal Code registered with Poladpur police station, District Raigad upon furnishing P.R. bond of Rs.25,000/- with one or more sureties in the like amount;
- ii) The applicant shall not influence the prosecution witnesses or tamper with the evidence;
- iii) The applicant shall keep himself away from the jurisdiction of Poladpur police station, District Raigad till the framing of charge;
- iv) In case it is noticed that the applicant is involved in similar type of offence, liberty is granted to the prosecution to move for cancellation of bail;
- v) The application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)