

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

CRIMINAL BAIL APPLICATION NO. 225 OF 2019

Rehan Mehbub Salmani	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.S.P. Kadam i/b. Mr.P.P. Raul for Applicant.
Ms.J.S. Lohokare, A.P.P. for Respondent-State.
Mr.Abhay Shelar, API, Bandra Police Station, Mumbai.

CORAM : A.S. GADKARI, J.

DATE : 10th April 2019.

P.C. :

1] This is an application under Section 439 of the Code of Criminal Procedure for bail in C.R. No. 248 of 2018 dated 27/04/2018 registered with Bandra Police Station, Mumbai, for the offence punishable under Section 363, 376 of the Indian Penal Code and Section 4, 8, 12 of the Protection of Children from Sexual Offences Act, 2012.

2] Heard the learned counsel for the applicant and the learned APP for the State. Perused the chargesheet.

3] The prosecutrix in the present case was aged about 14 years

on the date of lodgment of the crime. With a view to protect the identity of the prosecutrix and in consonance with the provisions of Section 228(A) of the Indian Penal Code and under Section 33(7) of the Protection of Children from Sexual Offences Act, the detailed narration of facts mentioned in the first information report and the statement of the prosecutrix are hereby avoided.

4] The first information report was lodged by the mother of the prosecutrix initially under Section 363 of the Indian Penal Code against unknown person.

The record indicates that, there are two statements dated 28th April 2018 of prosecutrix recorded under Section 161 of the Criminal Procedure Code on record. In her first statement recorded by the Police Officer attached to Bandra Police Station, the prosecutrix has named an accused, by name, Juned. In her said statement the prosecutrix though has named the applicant, however has not attributed any overt act to him. She has made allegations against accused Juned with whom she resided at his residence in the intervening night of 25th April 2018 and 26th April 2018. However, in her second statement recorded also under Section 161 of the Criminal Procedure Code by the

Officers of the Bandra Police Station, the prosecutrix has attributed the role of sexual assault on her by the applicant in the night of 25th April 2018 at his residence. Thus, there are two versions of the prosecutrix available on record and which is the correct version can be determined at the time of trial.

5] The applicant is in jail since 30th April 2018. The applicant is aged about 22 years and the police after completing investigation have submitted the chargesheet.

6] In view thereof, the applicant can be released on bail.

Hence, the following order :-

(i) The Applicant shall be released on bail in C.R.

No. 248 of 2018 dated 27/04/2018 registered with Bandra Police Station, Mumbai, on his furnishing P.R. bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

(ii) After his release from Jail, the applicant shall attend all the dates before the trial Court, unless exempted by the concerned Court.

- (iii) In case of two consecutive defaults, the Prosecution is at liberty to file an application for cancellation of bail.
- (iv) Applicant shall not tamper with the evidence and/or interfere with the process of investigation.
- (v) Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]