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

BAIL APPLICATION NO. 259 OF 2019

Sushant Santosh Mane

..Applicant

Vs

The State of Maharashtra

..Respondents

Mr. Abhishek R. Mishra I/b Pravin Naik and Ms. Sayali Belose for applicant.
Mr. S.S. Hulke, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 25th March 2019.

P.C.:

1] This is an application under Section 439 of Cr. P.C. for bail in CR No. 73 of 2018 dated 7.3.2018 registered with Sahar Police Station, Mumbai under sections 363, 323, 341, 354, 376(2)(I),(J),(K)(N) read with 34 of the Indian Penal Code and under sections 4,6,8,10 of the Protection of Children From Sexual Assault Offences Act, 2012 (POCSO Act).

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

3] The prosecutrix in the present crime was aged about 15 years at the time of lodgment of 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 (POCSO Act), the detailed narration of facts mentioned in the first information report and other relevant statements of witnesses disclosing her identity is hereby avoided.

4] It is the prosecution case that, on 5.3.2018 at about 10.p.m and on 6.3.2018 at about 11.00 p.m, the principal accused Lakhan in connivance with the present applicant abducted the prosecutrix and took her at a remote place and the principal accused forcibly sexually assaulted the prosecutrix. It is the prosecution case that, at the time, the applicant kept watch at the scene of offence and guarded it. The prosecutrix was abducted from a auto-rickshaw which was driven by the applicant. After the accused Lakhan committed the said crime, it is the applicant who dropped the prosecutrix near her house in the morning of 7.3.2018. During the course of investigation, the applicant came to be arrested on 7.3.2018 and after completion of investigation the police have submitted chargesheet.

5] The learned counsel for the applicant submitted that, there is a delay of two days in lodging the first information report. He submitted that, the applicant has no active role to play in the present crime. That the age of

the applicant is about 19 years and as the investigation of the present crime is completed, the applicant may be released on bail.

6] As noted earlier, the prosecutrix was abducted on two consecutive days i.e. 5th and 6th March 2018 and she was dropped by the applicant near her house on 7th March 2018 at about 4.00 a.m. The present crime is lodged immediately thereafter. Therefore, there is no substance in the contention of the learned counsel for the applicant that, there is a delay of two days in lodgment of crime. Even otherwise, the present crime is undoubtedly heinous in nature and the accused persons by taking undue advantage of the minor age of the prosecutrix and her inability to resist the abduction have committed the crime. As noted earlier, the applicant has played active role to help the co-accused Lakhan in committing the crime and had guarded the place of offence.

7] After taking into consideration the nature and the gravity of offence, this Court is of the opinion that the applicant does not deserve to be released on bail.

Application is accordingly rejected.

(A.S.GADKARI, J.)