

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 368 OF 2019**

Dilip Sadashiv Thakur	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Adnan N. Shaikh for the Applicant

Mr. A. R. Kapadnis, A.P.P for the Respondent-State

PSI Mr. V. B. Sawant from Meghwadi Police Station, is present

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 12th JUNE 2019

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. 225 of 2018 registered with the Meghwadi Police Station, for the alleged offences punishable under Sections 328, 377 of the Indian Penal Code and under Sections 4 and 12 of the Protection of Children from Sexual Offences Act.

3 Perused the papers. According to the prosecution, the applicant, aged 31 years and the victim boy aged 17 years became friends on face-book. It is stated that as both were into art, they became friendly. According to the victim boy aged 17 years, the incident took place on 26th June 2018, when the applicant had invited him over to his house. The victim boy has stated that he visited the house of the applicant, where the applicant offered him lime juice. He has stated that after drinking the lime juice, he started feeling giddy and became unconscious, pursuant to which, the applicant sexually assaulted him. He has stated that when he woke up, he found that he was on the bed and that his clothes were removed and that he had pain in the abdomen and that there was bleeding from the anus.

The victim boy went back home crying, however, did not disclose the incident to his parents. It appears that thereafter, the victim boy consumed phenyl and sent a message to his friend stating that he was leaving and that his friend should not worry about him, pursuant to which, the friend informed the victim's parents and the victim boy was saved.

On being questioned, the victim boy disclosed what had happened to him on 26th June 2018. Pursuant thereto, an FIR was registered.

4 The history given by the victim boy to the doctors reads as under :

*“History narrated by survivor Anup Ashok Ringe
Survivor received a friend request on face-book from unknown person in May ending 2018. He accepted it around 19 to 20 June 18 as there were mutual friends between them. Then they started chatting regularly on face-book messenger, then he called survivor to meet him at his residence on 26 June 18 in afternoon. He offered survivor lime juice. After drinking juice he started feeling giddiness and lost his consciousness. When survivor woke up he found himself naked and all clothes were lying nearby. After that survivor started pain in anal region. There was bleeding from anal region. In morning, while passing stools for 2 to 3 days. On 7th August 2018, he consumed phenol in morning for which he was admitted to trauma care hospital, then he revealed the incidence to his parents on 7th August 2018.”*

5 On medical examination, it was found that there were two linear tears of 6'O' clock position of anus of size 1.5 x 0.1 cms each, redness present in perianal region, Per rectal finding : No pain, tone of anal sphincter is normal. No other abnormality detected.

6 Learned counsel for the applicant submitted that there is a delay of 42 days in lodging the FIR. *Prima facie*, in this case, the veracity

of the complainant cannot be doubted, inasmuch as, the same is also corroborated by the medical evidence. The applicant was 16 years and 11 month at the time of the incident.

7 Considering the material on record, this is not a fit case to enlarge the applicant on bail. Application is accordingly rejected.

8 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.