

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

CRIMINAL BAIL APPLICATION NO. 395 OF 2019

Premkumar @ Prembahadur Santilal Harijan ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

Mr.Rakesh Mishra for Applicant.

Mr.R.M. Pethe, A.P.P. for Respondent-State.

Mr.Patil, P.I. and Mr.Parab, P.S.I., Aarey Police Station, Mumbai.

CORAM : A.S. GADKARI, J.

DATE : 3rd April 2019.

P.C. :

1] This is an application under Section 439 of the Code of Criminal Procedure for bail in connection with C.R. No. 153 of 2018 dated 09/07/2018 registered with Aarey Police Station, Mumbai, for the offence punishable under Section 376(2)(i)(n), 366-A and 506(II) of the Indian Penal Code and under Section 4, 8 and 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 record indicates that the DNA Report submitted by Assistant Chemical Analyzer of the Government Forensic Science Laboratory, Mumbai, mentions that, the applicant is excluded to be the biological father of the Femur of (fetus) abortus of the prosecutrix.

It thus *prima-facie* appears that the applicant cannot be held responsible for the alleged act as contemplated under Section 376 of the IPC committed by him.

4] In view of the report submitted by the Forensic Science Laboratory, the applicant can be released on bail.

Hence, following order :-

- (i) The Applicant shall be released on bail in C.R. No. 153 of 2018 dated 09/07/2018 registered with Aarey 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 every first Monday of the month before the Aarey Police Station, Mumbai, between 10:00 am and 12:00 noon.
- (iii) The applicant shall attend all the dates before the trial Court, unless exempted by the concerned Court.

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

[A.S. GADKARI, J.]