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

BAIL APPLICATION NO. 433 OF 2019

Rajesh Kalicharan Yadav

..Applicant

Vs

The State of Maharashtra & Anr.

..Respondents

Mr. Rishi Bhuta a/w Aarti Bhoir I/b Ashish Dubey for Applicant.

Ms. J.S. Lohokare, 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. 214 of 2018 dated 7.10.2018 registered with Aarey Police Station, Mumbai under sections 376, 324 of the Indian Penal Code and under section 4, 8 and 12 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 record.

3] The prosecutrix in the present crime was aged about 5 years and 8 months 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 are hereby avoided.

4] The first information report is lodged by mother of the prosecutrix. It is stated that, when the applicant was committing crime, younger sister of the prosecutrix, who was aged four years, saw the scene and raised hue and cry. Thereafter the uncle of the prosecutrix rushed to the scene of offence and tried to rescue the prosecutrix from the clutches of the applicant, the applicant assaulted him with a knife on his right hand and tried to ran away from the scene of offence. The neighbours of the prosecutrix apprehended the applicant and upon dialing Emergency 100 number, the police personnel came at the spot and arrested the applicant.

5] The statement of the mother of the prosecutrix inspires confidence and the same is reliable. There are witnesses who witnessed the assault on uncle of the prosecutrix and his attempt to run away from the scene of offence. There is more than sufficient material available on record to show the clear complicity of the applicant in the present crime.

6] 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.)