

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

CRIMINAL BAIL APPLICATION NO. 473 OF 2019

Akil Amin Ansari	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.Ghanshyam Upadhyay a/w. Mr.Dhires Singh i/b. Law Juris for Applicant.

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

Mr.Tambe, PSI, Nagpada Police Station, Mumbai.

CORAM : A.S. GADKARI, J.

DATE : 29th March 2019.

P.C. :

1] This is an application under Section 167(2) of the Code of Criminal Procedure for mandatory bail.

2] The applicant is an accused in connection with C.R. No.473 of 2018 dated 23/10/2018 registered with Nagpada Police Station, Mumbai, for the offence punishable under Section 376, 354 of the Indian Penal Code and Section 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

3] The applicant was arrested on 24/10/2018 and was produced for remand before the Special Court on the same day itself. The period for completion of investigation for the afore-stated offence is 90 days. The said period came to an end on 21/01/2019. The police submitted the chargesheet on 22/01/2019. These are the admitted facts on record.

4] As the police failed to file chargesheet on the 90th day, an indefeasible right accrued in favour of the applicant as contemplated under Section 167 (2)(a)(i) and therefore, he filed an application before the trial Court. The same application has been turned down by the trial Court on the ground that the period to file the chargesheet was available upto 22/01/2019 i.e. the 90th day of completion of the investigation and for filing of the chargesheet.

5] As noted earlier, the period of 90th day had come to an end on 21/01/2019. Even the counting of days as per the calendar would clearly indicate that the said period of 90th day have come to an end on 21/01/2019 and therefore, an indefeasible right for being released on bail under Section 167(2) of the CrPC had accrued in favour of the applicant.

6] The applicant is, therefore, entitled to be released on bail under Section 167(2) of the CrPC.

Hence, following order.

- (i) The Applicant shall be released on bail in C.R. No.473 of 2018 dated 23/10/2018 registered with Nagpada 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) Applicant is permitted to furnish provisional cash bail for a period of four weeks from today and during the said period, he has to comply with the procedure of furnishing sureties.
- (iii) After his release from Jail, the applicant shall attend all the dates before the trial Court, unless exempted by the concerned Court.
- (iv) In case of two consecutive defaults, 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.]