

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

CRIMINAL BAIL APPLICATION NO. 1022 OF 2019

Jitendra Harpal Singh	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Ms.Anjali Patil a/w. Mr.Arun Rajput for Applicant.
Mr.Amit Palkar, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.
DATE : 22nd 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. 952 of 2018 dated 30/12/2018 registered with Sakinaka Police Station, District Mumbai, for the offence punishable under Section 376 of the Indian Penal Code and Section 4, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

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

3] The prosecutrix in the present crime was aged about 17

years of age on the date of lodgment of the crime and with a view to protect her identity and in consonance with the provisions of Section 228(A) of the Indian Penal Code and Section 33(7) of the POCSO Act, the detailed narration of facts mentioned in the first information report and in the statement of the prosecutrix are hereby avoided.

4] The first information report is lodged by the prosecutrix herself. In her report, the prosecutrix has given her address as Village Dhoni, District Kakrava Bazar, Country – Nepal. She has stated that, she came to Mumbai leaving her parents house at her own will as she wanted to become singer. That she met the applicant at Marine Drive Chowpati, Mumbai. That the applicant was playing musical instrument, namely, guitar and therefore, the prosecutrix got acquainted with him. It is alleged that, the applicant promised the prosecutrix to give a job in an orchestra or some other job and also promised to perform marriage with her and thereafter extended physical relations with her. The applicant subsequently resiled from his promise and therefore, the prosecutrix lodged the present crime. In her supplementary statement dated 14th January 2019, the prosecutrix has mentioned her address as Bainganwadi, Govandi, Mumbai and she has explained that, the address

mentioned in the first information report was of her grand-father's residential address. In her supplementary statement, the prosecutrix has stated that, she got acquainted with the applicant at Marine Drive and she used to meet the applicant intermittently. That the applicant promised the prosecutrix to perform marriage and established physical relations with her. That on 28th December 2018 she had been to Marine Drive to meet the applicant. However, the applicant was busy in his vocation of singing at Thane and therefore, could not meet the prosecutrix. The prosecutrix, therefore, slept on the bench situated at the Marine Drive Chowpati and in the wee hours, a lady police constable made enquiry with her and brought her to the police station. During the course of investigation, the police arrested the applicant on 30th December 2018 and after completion of investigation have submitted chargesheet.

5] Even from the statements of the prosecutrix, a safe inference can be drawn that, the prosecutrix and the applicant were having love affair. The applicant is aged about 21 years. The applicant has produced certain photographs on record which indicates that the prosecutrix was having friendly relations with the applicant. It further *prima-facie*

appears that the prosecutrix on the date of alleged sexual assault by the applicant had attained the age of understanding and discrimination.

6] The police have already completed investigation and submitted chargesheet. No purpose will be served in further keeping the applicant in incarceration and the applicant can be released on bail.

7] In view of the above, the applicant can be released on bail.

Hence, the following order :-

- (i) The Applicant shall be released on bail in C.R. No. 952 of 2018 dated 30/12/2018 registered with Sakinaka Police Station, District Mumbai, on his furnishing P.R. bond of Rs.15,000/- with one or two local sureties in the like amount.
- (ii) After his release from Jail, the applicant shall attend all the dates before the trial Court, unless exempted by the concerned Court.
- (iii) In case of two consecutive defaults, the Prosecution is at liberty to file an application for cancellation of bail.
- (iv) Applicant shall not tamper with the evidence and/or influence prosecution witnesses.
- (v) Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]