

Vidya Amin.

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

CRIMINAL BAIL APPLICATION NO. 1074 OF 2019

Nadeem Khan	...	Applicant
VS.		
The State of Maharashtra	...	Respondent

Mr. Pankaj D. Purway, Advocate for the applicant.
Mr. S.V. Gavand, APP for the respondent/State.

**CORAM: REVATI MOHITE DERE, J.
DATED: 6th June, 2019**

P.C. :

Heard learned Counsel for the parties.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 633 of 2018 registered with the Malwani Police Station, Mumbai, for the alleged offences punishable under section 354 of Indian Penal Code and under Section 8 & 9 of Prevention of Children from Sexual Offences Act.

3. Perused the papers. The applicant is the father of the victim girl aged 14 years. Admittedly, there is a matrimonial dispute between the applicant and victim's mother. According to the complainant (wife of the applicant and mother of the victim girl),

the applicant would assault his daughter, pursuant to which an NC was lodged as against him, on two occasions. The complainant has alleged in her complaint dated 8th September, 2018 that the daughter (victim girl) disclosed to her that when she was alone at home on 6th September, 2018, the applicant entered the house at about 11.55 p.m.; that though the (victim) prevented the applicant from entering the house, the applicant caused his entry in the house, which is on the 2nd floor; that the applicant told her (victim) that her father was still alive and that, if she needed anything she should tell him; and that she should have told him, when she was ill, as he would have taken her to the doctor. According to the complainant, her daughter told the applicant to leave the house, as he was smelling of alcohol. She has stated that when the applicant was about to leave the house, he hugged the daughter tightly and touched her inappropriately.

4. It is not in dispute that there is a matrimonial dispute pending between the applicant and the complainant. Learned counsel for the applicant relied on a conversation between the applicant's daughter and the mother/complainant, which is at page 54 to 59 to show that at the behest of the mother, the victim girl had falsely

implicated the applicant. It appears that the said conversation was obtained subsequent to the filing of the charge-sheet, as a result of which, the police had no access to the said conversation, more particularly, since the applicant was in custody. Learned counsel states that he intends to take steps to produce the said conversation before the concerned Investigating officer so as to enable him to take appropriate steps in this regard. It is always open for the applicant to take appropriate steps to place the said conversation, which is at Exhibit "C", before the concerned police officer.

5. It is not in dispute that the complainant and her daughter are living on the second floor, which has a separate access; whereas the applicant and his mother are living on the 1st floor and that the access to the 1st floor is from the ground floor. Learned counsel for the applicant undertakes to this Court that in the event, the applicant is enlarged on bail, the applicant will not enter his house (on 1st floor) from the second floor, but will enter from the ground floor. Statement made by learned counsel for the applicant is accepted.

6. Considering the peculiar facts of the case, the Application is allowed and the applicant is enlarged on bail on the following terms and conditions:

ORDER

- (i) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/-, with one or more sureties in the like amount.
- (ii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police station, in writing;
- (iii) The applicant shall cooperate in the conduct of the trial.

7. The Application is allowed and disposed of on above terms.

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

(REVATI MOHITE DERE, J.)