

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1437 OF 2019**

Hari Babu Siddhraj Bagga	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Prabhanjay R. Dave for the Applicant

Ms. P. P. Shinde, A.P.P for the Respondent-State

PSI Mr. Hemant Patil from Chunabhatti Police Station, is present

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 5th JULY 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 184 of 2018 registered with the Chunabhatti Police Station, for the alleged offences punishable under Sections 377 and 506 of the Indian Penal Code and under Sections 4, 6 and 10 of the Protection of Children from Sexual Offences Act.

3 According to the complainant, her 12 year old son was playing with his friends at Somaiyya ground, on 30th October 2018, when the applicant took her son to the Security Cabin and allegedly performed oral sex with him. According to the complainant, her son disclosed the said incident in the night to her. The victim boy's friend who allegedly witnessed the said incident, also narrated the same to the complainant, pursuant to which, the aforesaid complaint was lodged.

4 Learned counsel for the applicant submits that the applicant has been falsely implicated in the said case, as the applicant and the complainant's daughter were meeting each other and as the complainant was against the same. He submits that although the victim boy has alleged oral as well as anal intercourse, the medical papers do not support the same. He submitted that the applicant is aged 20 years and was appearing for his 12th standard examination when the alleged incident is stated to have taken place.

5 Learned counsel also has tendered an affidavit of the applicant affirmed through jail as well as the affidavit of the applicant's mother. The

said affidavits are taken on record and marked 'X (Colly)' for identification.

6 Perused the papers, in particular, the statement of the victim boy and the medical case papers. According to the 164 statement of the victim boy, the applicant took him near the Security Cabin and performed oral as well as anal sex with him. In the history given to the doctor, the victim boy has only disclosed about the oral sex. The medical case papers do not show any injuries to suggest that there was any anal intercourse. The applicant has filed an affidavit stating that he will not enter the jurisdiction of Chunabhatti Police Station and that he will regularly attend the trial Court and that he would not indulge in illegal activities and will not tamper with the prosecution witnesses. The applicant's mother has also filed an affidavit stating that she would ensure that the applicant will attend the trial Court as well as the Police Station and that she will accompany him personally.

7 Whether or not the applicant has been falsely implicated, as the complainant was against the relationship of the applicant with the

complainant's daughter, is a matter, which will be decided by the trial Court. The applicant has no antecedents.

8 Having regard to the peculiar facts of the case and the affidavits, the application is allowed on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 10,000/- with one or two local sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;
- (iii) The applicant shall not enter the jurisdiction of Chunabhatti Police Station, except for attending the concerned Police Station;
- (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vi) The applicant shall cooperate with the conduct of the trial and shall attend the trial Court on every date;

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

9 The application is accordingly disposed of.

10 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.