

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

CRIMINAL BAIL APPLICATION NO. 1646 OF 2019

Akhilesh Basantu Basfor ...Applicant

Versus

State of Maharashtra ...Respondent

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Ms. Vandana Singh i/by Mr. Amarjeet H. Yadav, Advocate
for the Applicant.

Mr. S.R. Aagarkar, A.P.P. for the Respondent-State.

Mr. R.A. Saikar, P.S.I. Borivali Police Station.

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CORAM : SANDEEP. K. SHINDE, J.
DATE : 19th NOVEMBER 2019.

P.C.

1. Heard learned counsel for the applicant and
learned A.P.P. for the Respondent - State.

2. Applicant is seeking enlargement on bail in
Crime No. I - 624 of 2016 (Special Case No.335 of 2017)
registered with the Borivali Police Station, for the
offences punishable under Section 376 of Indian Penal
Code, 1860 and under Sections 4, 8 and 12 of POCSO Act
2012 .

3. At the relevant time, the victim was 14 years old, deaf and dumb girl. On 06.12.2016, the victim was suffering stomach-ache. She was examined by Doctor at Lokmaniya Tilak Hospital, Sion. Doctor reported the advance pregnancy of the victim. Thereupon victim's mother filed report with the police on 16.12.2016. As such, crime as aforesaid came to be registered against the unknown person.

4. Victims' statement was recorded with the assistance of special teacher, on 06.12.2016 and the next statement on 02.05.2017. In the first statement, she did not give the description of the person who allegedly committed sexual assault. Whereas in the next statement, she gave the description of a person who allegedly committed the sexual assault. The applicant came to be arrested on 19.06.2017 from Uttarpradesh.

5. The test identification parade was conducted on 26.09.2017 and the victim identified the applicant.

6. I have perused the investigation record DNA test report dated 13.09.2017 is on record. Doctor opined, the applicant is excluded to be the biological father of the victim.

7. Admittedly, the victim did not give the description of a person who allegedly committed sexual assault, when the complaint was lodged in December, 2016. There is no other evidence on record to show complicity of the present applicant in the subject crime.

8. For the reasons stated here-in-above, the application is allowed. Hence, the following order:

ORDER

(i) The applicant be released on bail, on executing P.R. Bond in the sum of Rs.25,000/- with one or more local solvent surety in the like amount;

(ii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iii) The applicant shall furnish particulars of 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;

9. The application is allowed in the aforesaid terms and 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.

(*SANDEEP K. SHINDE, J.*)