

Anand

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

BAIL APPLICATION NO. 1751 OF 2019

Amitkumar Rajmani Sharma

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr. Akhilesh Dubey a/w Ms Yogita Mishra, Mr. Uttam Dubey,
Mr. Rahul Sharma i/b. Law Counsellors Pro Bono, Advocate, for the
Applicant

Mr. A. R. Kapadnis, APP, for the Respondent – State

Mr. Ravindra Jadhav, PSI, Oshiwara Police Station, Mumbai present

CORAM : REVATI MOHITE DERE, J.

DATE : 31.07.2019

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. 460 of 2018 registered with the Oshiwara Police Station, Mumbai, for the alleged offences punishable under Sections 323, 354, 354(A), 376(2)(n) and 506 of the Indian Penal Code and under Sections 4, 8 & 10 of the Protection of Children from Sexual Offences Act.

3. Learned counsel for the Applicant submits that the prosecutrix, aged 17 years has changed her statement twice. He submits that in the statement recorded on 19.10.2018, the prosecutrix has not made any allegation of rape and has only alleged outraging of her modesty, however, in the statement recorded on 22.10.2018, she has alleged sexual assault on her by the Applicant.

4. Learned APP opposes the Application. He submits that the evidence on record clearly shows the complicity of the Applicant. He submits that the girl was mentally challenged and that the Applicant had taken advantage of the said girl.

5. Perused the papers. According to the prosecution, the Applicant is a friend of the prosecutrix's brother. According to the prosecutrix, the incident took place on 18.10.2018. She has stated in her statement which was recorded on 19.10.2018 that the Applicant was following her and thereafter, the Applicant touched her inappropriately and kissed her. Subsequently, on 22.10.2018, the prosecutrix stated that the Applicant had not only followed her and touched her inappropriately but had also touched her private part and thereafter, removed her clothes

and had forcible sexual relations with her. She has stated that pursuant thereto, she started bleeding. She has further stated that the Applicant threatened her not to disclose the same to any person or else he would kill her. The history given to the Doctor on 22.10.2018 shows that the prosecutrix had disclosed that the Applicant had on 18.10.2018 inappropriately touched her, forcibly kissed her and had sexual intercourse with her. The Doctor has recorded that when the prosecutrix returned, she could not sleep, was assaulting herself and was shouting at night. The prosecutrix appears to be mentally challenged. There are witnesses who have seen the victim girl running and the Applicant running behind her. The Complainant is the mother of the prosecutrix who has lodged the aforesaid complaint pursuant to the disclosure made by her daughter.

6. Considering the material on record, this is not a fit case to enlarge the Applicant on bail. Accordingly, the Application stands rejected. However, the trial of the Applicant is expedited, having regard to the age of the prosecutrix. Learned Judge is requested to decide the case as expeditiously as possible and preferably within a period of six months from the date of receipt of this order.

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

(REVATI MOHITE DERE, J.)