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

CRIMINAL BAIL APPLICATION NO.1753 OF 2019

Shakeeb Mubeen Ansari

...Applicant

Versus

State of Maharashtra

...Respondent

Ms.Maharukh Adenwalla, for the Applicant.

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

PSI – A.B.Mahadik, Trombay Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 30th 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.63 of 2016 registered with the Trombay Police Station, Mumbai, for the alleged offences punishable under Sections 376D, 324 and 506 of the Indian Penal Code and under Sections 4, 8 and 12 of Protection of Children from Sexual Offences Act.

3. Perused the papers. Admittedly, the applicant was a juvenile, aged 17 years, at the time of the alleged incident. According to the prosecutrix, aged 17 years, the incident took place on 12th March, 2016, at about 7.30 a.m. She has stated that she was acquainted with the applicant and that the applicant lured her to the spot of the incident, where two other co-accused were waiting and that all the accused raped her one after the other. It is further alleged that the applicant threatened her not to disclose the same and caused injury on her left wrist with a blade. Pursuant thereto, the prosecutrix lodged the aforesaid complaint alleging the aforesaid offences. The applicant was arrested on 12th March, 2016 alongwith two adult co-accused.

4. Learned Counsel for the applicant submits that the two adult co-accused who were tried, before the Regular Court, have been acquitted of the offences, with which they were charged as the prosecutrix did not support her case, qua the said accused. She further submits that since the applicant was a juvenile, he was placed in the Observation Home and continues to be in the Observation Home, till date. She relied on Exhibit – 'E' of the application, wherein the Individual Care Plan of the Applicant is

set out. The feedback from the Probation Officer/Care Takers as set out in the aforesaid plan shows that the applicant has a very positive image and that he is a polite child and does all the work sincerely as assigned to him. It is also stated that he has completed his 10th Standard and has also learned the skills of an Office Boy. It is also mentioned that he has helped each and every child, who is new in the Observation Home and that there is no complaint against him. The applicant and his parents have filed their affidavits. The applicant in his affidavit has stated that he has resumed his education while in the Observation Home and that in 2017, he has passed the Secondary Examination through the National Institute of Open Schooling (Delhi Board) and in April – May, 2019, he appeared for a few subjects of the Senior Secondary Examination. He has stated that he wishes to continue with his studies and that he intends to reside with his parents and siblings at Cheetah Camp. He has also undertaken to maintain good behaviour and good conduct and has also undertaken to attend the Children's Court on dates given by the learned Judge. He has also undertaken that he will not make any attempts to contact the prosecutrix in any manner. The applicant's parents have also filed an affidavit stating that they will take the responsibility of the well-being of the applicant and have

also undertaken that the applicant will attend the Children's Court whenever his presence is required and that the applicant will abide by the conditions of the bail. The applicant is in custody since 2016. Investigation is complete and charge-sheet is filed.

5. Having regard to what is stated aforesaid, 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.5,000/-;
- ii) The Applicant shall attend the Children's Court, on the dates given by the said Court;
- iii) The Applicant to be placed under the supervision of the Probation Officer, who will supervise the applicant's progress;
- iv) 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;

v) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case.

6. The Application is allowed and disposed of in above terms.

7. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

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

REVATI MOHITE DERE, J.