

Dusane

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

CRIMINAL BAIL APPLICATION NO.1769 OF 2019

Ganesh Tanaji Yevale Applicant

Versus

State of Maharashtra Respondent

Mr. Anand Awasarmol , for the Applicant.
Mrs. Veera Shinde, APP for the State.
API, Mr. V.L. Kadam, Kalwa Police Station, present

CORAM : REVATI MOHITE DERE, J.

DATE : 26th SEPTEMBER, 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. I-434 of 2018 registered with the Kalwa Police Station, for the alleged offences punishable under Sections 377 and 506 of the Indian Penal Code and Sections 4,8 and 12 of POCSO Act.

3. Learned counsel for the applicant submits that the applicant is 21 years old and a student, has been falsely implicated in the said case because of a dispute between the applicant's mother and the survivor's grandmother. He submits that no such incident as alleged has taken place. He further submits that the medical injuries do not corroborate the alleged incident of sexual assault.

4. Learned APP does not dispute the fact that the medical injuries do not corroborate the incident of sexual assault.

5. Perused the papers in particular the statement of the two boys (both brothers) aged 8 and 12 years. According to the boys, the applicant sexually assaulted them. A perusal of the medical certificates do not corroborate the allegations of sexual assault. Whether or not the applicant is falsely implicated or not is a matter of trial. The applicant is in custody since 17th November, 2018. The applicant has no

antecedents. Investigation is complete and charge-sheet is filed. Accordingly, the application is allowed and the applicant is enlarged on bail on the following terms & conditions :-

O R D E R

- (i) The Applicant be released on cash bail in the sum of Rs. 10,000/-, for a period of six weeks;
- (ii) The Applicant shall within the said period of six weeks, furnish P. R. Bond in the sum of Rs. 10,000/- with one or two sureties in the like amount;
- iii) The Applicant shall attend the concerned Police Station, on the first Sunday of every month, between 10:00 a.m. to 11:00 a.m., till framing of charge.
- (iv) The Applicant shall not enter the jurisdiction of Kalwa Police Station, except for the purpose of attending the Police Station, as directed;

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

(vi) 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 Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(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.

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

9. 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.

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

REVATI MOHITE DERE, J.