

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL BAIL APPLICATION NO. 1945 OF 2019**

Rakesh Vijaynath Saroj

...Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. Sanjeev Kadam i/by Pramod Kumbhar for the Applicant.

Mr. R.M. Pethe APP for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 4th SEPTEMBER, 2019.

P.C.:-

This is a consecutive Application for bail by the Applicant.

The earlier Application for bail, bearing Bail Application No.726 of 2019 preferred by the Applicant, was dismissed as withdrawn by an Order dated 25th March, 2019 by granting liberty to him to file a fresh Application for bail before the Trial Court, if the trial arising out of CR No. 401 of 2018 registered with Kurar Police Station, Mumbai, culminated into POCSO Case No. 419 of 2018 pending on the file of the learned Additional Sessions Judge, Dindoshi, Mumbai does not commence within a period of one year from that day.

2 Heard the learned counsel for the Applicant at length and the learned APP. Perused the charge sheet and the Forensic Science Laboratory report dated 2nd January, 2019.

3 At the outset, it is to be noted here that, before expiry of the said period of one year and without approaching the Trial Court, the Applicant has filed the present Application before this Court.

4 Mr. Kadam, the learned counsel for the Applicant submitted that, in view of the Medical Report annexed to the charge-sheet, at the most, an offence of attempt to commit rape can be alleged, however, a complete offence as contemplated under Section 376 of the Indian Penal Code, is not disclosed. He submitted that, the said fact was not earlier pointed out to this Court and therefore, without approaching the Trial Court, the jurisdiction of this Court is invoked.

5 The learned APP produced a report given by the Assistant Chemical Analyser attached to the Government Forensic Laboratory, Mumbai dated 2nd January, 2019. In the said report it is stated that, the DNA profile obtained from Exhibit 9 (Abdominal Swab) of the prosecutrix is of male origin and matched with DNA profile obtained from the blood sample of the Applicant. It thus, *prima facie* appears

that, the statement of prosecutrix is further corroborated by the said report.

The age of prosecutrix on the date of incident was about 10 years. The Applicant is a married person and father of a child. The Applicant was neighbour of prosecutrix and by taking undue advantage of the situation, it is alleged that, he has committed the present crime.

6 In view of the above and after taking into consideration the serious allegations against the Applicant, this Court is of the considered view that, the Applicant does not deserve to be released on bail.

Application is accordingly rejected.

(A.S. GADKARI, J.)