

Anand

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

BAIL APPLICATION NO. 2139 OF 2019

Saddam Laltu Shaikh

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr. Bharat Khanna with Mr. Ganesh Gole i/b. Mr. R. M. Kanojia,
Advocate, for the Applicant

Mr. V. V. Gangurde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 28.08.2019

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. At the outset, learned counsel for the Applicant seeks leave to delete the name of the prosecutrix wherever it appears in the Application. Leave granted. Amendment to be carried out forthwith.

2. Heard learned counsel for the parties.

3. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. I-37 of 2019 registered with the MIDC Police Station, Mumbai, for the alleged offences punishable under Sections 363, 376(2)(i), (j), 506 r/w 34 of the Indian Penal Code and under Sections 4 & 8 of the Protection of Children from Sexual Offences Act.

4. Perused the papers, in particular the statement of the

prosecutrix, aged 17 years. According to the prosecutrix, aged 17 years, on 24.01.2019, co-accused – Ali told her that he would get her employment and asked her to accompany him on his motor cycle. The prosecutrix has stated that co-accused – Ali took her to Milind Nagar, Powai, where Ali went and called the present Applicant. According to the prosecutrix, Ali disclosed to her that she should accompany the Applicant and that the Applicant will help her get a job. Pursuant thereto, she accompanied the Applicant on a motor cycle to Dahisar. She has further stated that the Applicant took her to a room in Dahisar and later, Ali also joined them; that they were roaming around till 4.00 a. m. in the morning i. e. of 25.01.2019. She has further stated that at about 4.00 a. m., on 25.01.2019, the Applicant and co-accused – Ali took her to a room which was situated at Mumbra, where they all slept. She has stated that in the morning, co-accused – Ali left the said room and that the Applicant at about 9.00 a. m. brought some breakfast for her. She has further stated that after having breakfast, the Applicant closed the door of the room and had forcible sexual intercourse with her. She has stated that she started shouting, pursuant to which the Applicant gagged her mouth. The Applicant is also alleged to have threatened her not to disclose the said incident to any person else, he would kill her parents. She has further stated that in the evening at 5.00 p. m., the Applicant dropped her on the road and ran away, pursuant to which she went to Mumbra Railway Station. She has stated that when she was crying at the Railway Station, one lady asked her what had happened, pursuant to

which she made the alleged disclosure of rape by the Applicant. The said lady informed the prosecutrix's mother. Accordingly, the prosecutrix's mother lodged an FIR on 27.01.2019. In the FIR which was lodged, initially no allegations of 376 were disclosed and the reason for the same is reflected in the supplementary statement of the Complainant on 27.01.2019. The history given to the Doctor by the prosecutrix is consistent with her statement of forcible sexual intercourse by the Applicant. The statement of the lady to whom the disclosure was made by the prosecutrix is also consistent with the prosecutrix's statement.

5. Considering the material on record and the fact that the Applicant had taken advantage of the prosecutrix who was looking for a job, by taking her to an isolated spot and committing the aforesaid act, the Applicant does not deserve to be enlarged on bail. The possibility of the Applicant tampering with the witnesses also cannot be ruled out. Accordingly, the Application stands rejected.

6. 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.

(REVATI MOHITE DERE, J.)