

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 1932 OF 2018**

Gautam Bhagwan Dhere

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Smt. Anjali Patil I/by Mohsin Khan for the Applicant.

Smt. Rutuja Ambekar APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 22nd MARCH, 2019.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 8 of 2018 dated 14th January, 2018 registered with Vikroli Police Station, Mumbai under Sections 376, 506 (2) of the Indian Penal Code and under Sections 4, 6 and 12 of the Protection of Children From Sexual Offences Act, 2012 (POCSO Act), now culminated into POCSO Special Case No. 192 of 2018.

2 Heard the learned counsel appearing for the Applicant and the learned APP. Perused the charge sheet.

3 The prosecutrix in the present crime was aged about 16 years and 5 months on the date of lodgment of the crime and with a

view to protect her identity and in consonance with the provisions of Section 228(A) of the Indian Penal Code and Section 33(7) of the POCSO Act, the detailed narration of the facts mentioned in the first information report and in the statement of the prosecutrix are hereby avoided.

4 The statements of the prosecutrix and the record of investigation indicates that the prosecutrix was having an affair with co-accused Ganesh Hiwale (Juvenile in conflict with law). That, the Applicant came to know about the said affair and therefore, by taking undue advantage of the same, on the date and time of the alleged incident, he attempted to commit sexual assault on the prosecutrix. When the prosecutrix created hue and cry, the Applicant fled away from the scene of offence. It is further the prosecution case that the Applicant also threatened the prosecutrix that, if she mentions or informs the said incident to anybody, he will divulge her affair with co-accused to the people in the locality and will cause defamation of the prosecutrix.

5 As noted earlier, it is the allegation against the Applicant that he attempted to commit the offence as contemplated under Section 376 of the Indian Penal Code by taking undue advantage of

the fact and the prosecutrix was having an affair with co-accused Ganesh Hiwale. The Applicant is in Jail since 16th January 2018. The Police have already completed investigation and submitted charge sheet. It is submitted that there are no antecedents at the discredit of the Applicant.

6 In view of the above, the Applicant can be released on bail.

Hence the following order:-

- a) In the event of arrest in CR No. 8 of 2018 dated 14th January, 2018 registered with Vikroli Police Station, Mumbai, the Applicant shall be released on bail on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- b) Before his release from Jail, the Applicant shall submit the documents of his prospective residence to the Vikroli Police Station so also to the Trial Court.
- c) After his release from Jail, the Applicant shall not reside or enter within the jurisdiction of Vikroli Police Station and shall keep himself away.
- d) After his release from Jail, the Applicant shall

attend each and every date before the Trial Court unless precluded on medical reasons.

- e) Any two consecutive defaults in complying with the afore-stated conditions will attract the provisions of cancellation of bail.
- f) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.
- g) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)