

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 2495 OF 2018**

Mohamed Mogis Salimmiya Alam

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. R.N. Kachave for the Applicant.

Mr. Ajay Patil APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 27th MARCH, 2019.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 333 of 2017 dated 9th July, 2017 registered with M.I.D.C. Police Station, Mumbai under Sections 376, 354, 506 read with Section 34 of the Indian Penal Code and under Sections 4, 6, 8 and 12 of the Protection of Children From Sexual Offences Act, 2012 (POCSO Act), now culminated into Sessions Case No. 165 of 2018.

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

There are two prosecutrix in the present crime. The age of

the prosecutrix on the date of lodgment of the crime was about 13 years and 11 years respectively and with a view to protect their 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.

3 Perusal of the first information report would indicate that, it is alleged that the Applicant inappropriately touched the prosecutrix and her sister on various occasions and inserted his finger in the private part of the prosecutrix No.1. It is also alleged that, the Applicant flashed his private part in front of both the prosecutrix.

During the course of investigation, the Applicant came to be arrested on 30th July, 2017 and after completion of investigation, police have submitted charge sheet.

4 After taking into consideration the afore-stated facts and the allegations made against the Applicant in the first information report and the fact of completion of investigation, this Court is of the view that no fruitful purpose will be served by further keeping the Applicant in incarceration.

5 In view of the above, the Applicant can be released on bail on strict condition.

Hence the following order-

- a) The Applicant shall be released on bail in CR No. 333 of 2017 dated 9th July, 2017 registered with M.I.D.C. Police Station, Mumbai on his furnishing PR bond of Rs.20,000/- with one or two solvent local sureties in the like amount.
- b) Before his release from Jail, the Applicant shall furnish the documents pertaining to his prospective residence to the Investigating Agency and also before the Trial Court.
- c) Before his release from Jail, the Applicant shall provide his own mobile number and also the mobile numbers of his sureties with the Investigating Agency and also before the Trial Court.
- d) After his release from Jail, the Applicant shall not enter in the jurisdiction of M.I.D.C. Police station, Mumbai and shall keep himself away from it.

- e) After his release from Jail, the Applicant shall attend all the dates before the Trial Court unless exempted by the concerned Court.
 - f) Any two consecutive defaults in complying with the afore-stated conditions will attract the provisions of cancellation of bail.
 - g) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.
- 6 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)