

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2616 OF 2018**

Mahendra Hridayanarayan Sharma

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms. Pooja Joshi h/f Mr. A. M. Saraogi I/b Ms. Dimple Joshi for the Applicant

Mr. Sooraj S. Hulke, A.P.P for the Respondent-State

PSI Mr. Vikram Babar from Kurar Police Station, is present

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 5th JULY 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. 558 of 2017 registered with the Kurar Police Station, Mumbai, for the alleged offences punishable under Sections 376(2) (i) (j) (n) of the Indian Penal Code and under Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act.

3 According to the complainant (aunt of the prosecutrix), the prosecutrix was staying with her, as her parents had expired. She has stated that as the prosecutrix was not feeling well, she asked her neighbour to take her to the doctor. When the prosecutrix was taken to the doctor, the doctor on examining her, found that the prosecutrix was six months' pregnant. Pursuant thereto, the neighbour informed the complainant, who took the prosecutrix aged 17 years into confidence, pursuant to which, the prosecutrix narrated the incident of sexual assault on her by the applicant. The statement of the prosecutrix shows that in April 2017, when she was proceeding towards school, the applicant, whom she addressed as Sharma Chacha, met her and took her home, on the pretext of giving rice. According to the prosecutrix, when she went to the applicant's house, he committed forcible sexual intercourse with her. She has alleged that the applicant had threatened her and therefore, she did not disclose the incident to any of her family members. The prosecutrix delivered a child and the DNA report shows that the applicant is the father of the child. The applicant aged 49 years had taken advantage of the prosecutrix aged 17 years and had sexually assaulted her.

4 Considering the nature of allegations, it is not a fit case to enlarge the appliccant on bail. The application is rejected.

5 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.