

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2643 OF 2018

DHANANJAY SUNIL GURAV

.....APPLICANT

Vs.

THE STATE OF MAHARASHTRA

.....RESPONDENT

Mr. C.P. Shenvi a/w Mr. R.P. Mishra for the Applicant.
Mr. Ajau Patil APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 12th APRIL, 2019.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 265 of 2017 dated 25th September, 2017 registered with Bangur Nagar Police Station, Mumbai under Sections 376 and 377 of the Indian Penal Code and under Sections 4, 6, 8, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), now culminated into POCSO Special Case No. 21 of 2018.

2 The prosecutrix in the present crime was aged about 5 years 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 facts mentioned in the first information report and in the statement of the prosecutrix are hereby avoided.

3 Heard the learned counsel for the Applicant and the learned APP. Perused the charge-sheet.

4 The first information report is lodged by the mother of the prosecutrix.

It is the prosecution case that, on 19th September, 2017 at about 4.00 p.m. when the prosecutrix had been to the house of the Applicant, he sexually assaulted her. The prosecutrix informed the said fact to her mother and thereafter, the present crime has been registered.

5 The statement of the prosecutrix has been recorded by the investigating agency in presence of woman police officer attached to Bangur Nagar Police Station, Mumbai, member of “*Stri-Dakshata Samitee*” (“*Women Protection Committee*”) and the mother of the prosecutrix wherein, the prosecutrix has in detailed narrated the said assault committed by the Applicant.

The statement of prosecutrix under Section 164 of the Code of Criminal Procedure has also been recorded by the learned

Metropolitan Magistrate, 54th Court, Mazgaon, Mumbai on 3rd October, 2017. The prosecutrix has clearly narrated the sexual assault suffered by her at the hands of Applicant before the learned Magistrate.

5 The prosecutrix who is aged about 5 years, has no reason to falsely implicate the Applicant in the present crime. Thus, *prima facie*, there is sufficient material available on record to show the clear complicity of the Applicant in the present crime.

6 After taking into consideration the serious allegations against the Applicant in the present crime, this Court is of the view that the Applicant does not deserve to be released on bail.

Application is accordingly rejected.

(A.S. GADKARI, J.)