

Anand

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

BAIL APPLICATION NO. 2774 OF 2018

Babu Prakash Mukerwal

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr. Nitin S. Satpute, Advocate, for the Applicant

Mrs. P. P. Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 13.08.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. I-17 of 2018 registered with the Tilak Nagar Police Station, Mumbai, for the alleged offences punishable under Sections 376, 323, 342, 452 of the Indian Penal Code and under Sections 4, 6, 8 & 12 of the Protection of Children from Sexual Offences Act.

3. Perused the papers, in particular the statement of the prosecutrix, aged 16 years. According to the prosecutrix, the Applicant,

aged 27 years, was her neighbour and as such, was known to her and her family. She has stated that the Applicant on 15.02.2018, entered the house at about 4.00 p. m., on the pretext of asking water and thereafter, locked the door from inside and had forcible physical relations with her. She has stated that she tried to shout, however, as the Applicant had put his hand on her mouth, she could not shout. She has stated that just then, her father came and opened the door. The statement of the prosecutrix recorded under Section 161 of the Cr. P. C. is consistent with her 164 statement.

4. Learned counsel for the Applicant submits that the relations between the Applicant and the prosecutrix, if any, were consensual and that there is discrepancy in the statement of the prosecutrix and her father. Considering the fact, that the prosecutrix was a minor, aged 16 years, consent is immaterial. The Injury Certificate of the Applicant also shows that the Applicant has sustained abrasion on the right side of neck (like nail scratch) and abrasion on the back of neck (like nail scratch). If the Applicant is enlarged on bail, the possibility of the Applicant tampering with the witnesses also cannot be ruled out.

5. Considering the aforesaid, this is not a fit case to enlarge

the Applicant on bail. Hence, the Application stands rejected. However, the trial of the Applicant is expedited. Learned Judge to decide the case on its own merits uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)