

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2801 OF2018

Ahmed Raza Mohammed Nazir Shaikh,
Age 24 years, Occ.Service,
R/o.Wasal Tauji Naik Nagar, Backside Shane
Ahmedi Hotel, Zhopadpati Masjid Gali,
Chembur, Mumbai-400 071.

Applicant

versus

The State of Maharashtra

Respondent

Mr.Khalid Azmi I/by Shaikh M. Ahmed for applicant.
Ms.G.P.Mulekar, APP, For State.

CORAM : PRAKASH D. NAIK, J.

DATE : 21st January 2019

PC :

1. The applicant is arrested on 6th May 2017 in connection with CR No.128 of 2017 registered with Mahim Police Station for offences under Sections 323, 366, 376, 506 of Indian Penal Code read with Sections 4, 8, 12 and 17 of Protection of Children from Sexual Offences Act read with Sections 9 and 11 of Prohibition of Child Marriage Act.

2. The case of prosecution is that the co-accused had performed marriage with the victim who was a minor against her will. It is alleged that the mother of victim had forced her to perform the said marriage. The role attributed to the applicant is that he has acted as Qazi for performing the marriage. The co-accused who has performed the marriage and mother of victim, are arrested and are in custody. The investigation is completed and charge sheet is filed.

3. The advocate for applicant submits that the applicant is in custody from the date of arrest. Except acting as Qazi for performing the marriage, no other role is attributed to the applicant.

4. Learned APP submitted that the victim was minor at the time of incident. The applicant who has acted as Qazi ought not to have been party to the said marriage. Learned APP submitted that the statements of the persons who acted as witnesses at the performance of marriage and mediator, could not be recorded as they were not traceable.

5. Considering the role attributed to the applicant that he has acted as Qazi and also considering the fact that the applicant is in custody for one and half year, and since investigation is completed and charge sheet is filed, further custody of the applicant is not necessary. There are no criminal antecedents as against the applicant. The said fact is not disputed by prosecution. In the circumstances bail can be granted to the applicant.

6. Hence, I pass following order :

ORDER

(i) Criminal Bail Application No.2801 of 2018 is allowed and disposed off;

(ii) The applicant is directed to released on bail in connection with CR No.128 of 2018 registered with Mahim Police Station, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

(iii) The applicant shall report Mahim Police Station once a month on every first Friday between 11 am and 1 pm;

(iv) The applicant shall not tamper with the evidence and shall attend the Trial Court proceedings regularly, unless exempted by the Trial Court for some reason.

(PRAKASH D. NAIK, J.)

MST