

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

CRIMINAL BAIL APPLICATION NO.2821 OF 2018

Amir @ Ayan Intazar Khan	.. Applicant
Vs.	
State of Maharashtra	.. Respondent

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Ms.Sartaj Shaikh, Advocate for the Applicant.
Mr.R.M. Pethe, APP for the Respondent – State.
PSI Dhanajay M., Ghatkopar Police Station, Mumbai, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 8, 2019.

P.C. :

This is an application for bail in connection with C.R.No.165 of 2018, registered with Ghatkopar Police Station, Mumbai, for the offence punishable under Sections 363, 376(D) and 377 of Indian Penal Code ("IPC" for short) and under Sections 4, 6, 8 and 12 of Protection of Children from Sexual Offence Act ("POCSO", for short).

2 The case of the prosecution is that the victim aged about 16 years was studying in 11th standard. On 17th March,2018, the victim had left her house for going to college. However, she did not return. Hence, mother of victim lodged

complaint on 21st March, 2018, against unknown persons for offence under Section 363 of IPC. Subsequently, the victim was traced and on the basis of her version, the other penal provisions, as stated above, were invoked. From the statement of complainant, it can be seen that she had left house on 17th March, 2018. After attending her examination in the college, she went to Sion to meet her friend. She stayed at the house of her friend. On 18th March, 2018, she alone went to Powai Garden. Since the victim wanted to go home, she gave call to applicant - accused and called him at Powai. At about 9:00 p.m., the applicant - accused took her to the godown situated near Chandani Lodge at Ghatkopar. Both of them consumed liquor. She was under intoxication. At that time, the accused had sexual intercourse with her. The applicant dropped her home. On 19th March, 2018, the mother of victim inquired with her as to why applicant had accompanied her. On 20th March, 2018, the victim again went to college and met the other accused. She had consumed liquor with them and at that time the said accused had sexually assaulted her. On account of fear the victim did not inform the incident to her mother immediately. The statement of victim was recorded on 28th March, 2018. Applicant was arrested on 24th March, 2018. Investigation is completed and charge - sheet is filed.

3 The co-accused who is allegedly involved in the earlier incident has been granted bail by this Court vide order dated 29th January, 2019. Learned counsel for the applicant pointed out that in the medical history given to doctor, no role has been assigned to the applicant. In the statement under Section 164 of Cr.P.C. is stated that the applicant-accused had taken the victim to the shop of the applicant and she was sexually assaulted by other accused. It is further submitted that there are various contradictions in the statement of witnesses. Learned APP submitted that the contradictions cannot be looked into at this stage. The other evidence on record attributes involvement of the applicant. Applicant is in custody from 24th March, 2018. According to the applicant, there are no antecedents against the applicant. Considering the aforesaid circumstances, case for grant of bail is made out.

5 Hence, I pass the following order:

:: ORDER ::

- (i) Criminal Bail Application No.2821 of 2018, is
allowed;

- (ii) Applicant is directed to be released on bail in connection with C.R.No.165 of 2018, registered with Ghatkopar Police Station, Mumbai, on his furnishing P.R.Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall attend Ghatkopar Police Station, Mumbai, once in a month on first Saturday of the month between 11:00 a.m. to 01:00 p.m., till further orders;
- (iv) Applicant shall not tamper with the evidence in any manner;
- (v) Applicant is permitted to furnish cash security in the sum of Rs.25,000/-, in lieu of surety, for a period of six weeks from the date of release;
- (vii) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)