

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

CRIMINAL BAIL APPLICATION NO. 2961 OF 2018

Mujahid Madhava Alam @ Anmol ... Applicant
Vs.
The State of Maharashtra ... Respondent

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Mr. Himanshu S. Shinde for the applicant.
Mrs. G.P. Mulekar, APP for the Respondent-State.

...
CORAM : PRAKASH D. NAIK, J.
DATE : 30th JANUARY, 2019.

P.C.

1. This is an application for bail in CR No. 121 of 2017 registered with Versova Police Station for the offence punishable under Sections 363, 376 and 377 of Indian Penal Code read with Section 4 and 8 of POCSO Act. The complaint was lodged by the mother of the victim.

2. On 25th April, 2017 the victim left the house and did not return home. Hence, the First Information Report was lodged under Section 363 of Indian Penal Code. Victim was thereafter traced on the same day and on the basis of version of the victim the supplementary statement of the complainant was recorded on 25th April, 2017. It was alleged that the accused had physical

relationship with the victim. Statement of the victim was recorded on 25th April, 2017 wherein she has stated that she was acquainted with the applicant. On 24th April, 2017 she left the house to meet the applicant and both of them went to Andheri and thereafter to hut. She was friendly with the applicant. It was also stated that applicant had physical relationship with her.

3. Victim was medically examined. The examination was conducted prior to the registration of First Information Report. History given to the doctor by the victim shows that she was in love with the applicant accused. It is also stated that applicant has committed sexual intercourse with her. Medical case papers with regards to examination of the victim also mention that there was no fresh injury. Learned APP further submits that victim was minor girl aged about 14 years at the time of incident. Her mental age was about 7 years. Statement recorded by the police shows that specific overt act has been attributed to the applicant having committed sexual assault to the victim.

4. On perusal of the First Information Report and the statement it is apparent that the victim and accused were acquainted with each other. Statement of the victim shows that she had met the accused on the date of incident. It is true that victim was minor at

the time of incident. However, history provided to the Doctor during the medical examination indicates that there was no sexual intercourse. Learned APP has further submitted that on account of her age, there is variation in the statement. It is pertinent to note that medical evidence also shows that there was no fresh injury. Taking into consideration the aforesaid circumstances, bail can be granted to the applicant. Hence, I pass the following order.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with C.R. No. 121 of 2017 registered with Versova Police Station, on furnishing P.R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- iii. Applicant shall not enter into the jurisdiction of D.N.Nagar Police Station where the victim resides;
- iv. Applicant shall not tamper with the prosecution witnesses;
- v. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)