

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

CRIMINAL BAIL APPLICATION NO. 2985 of 2018

Jafar Ramjan Ansari

... Applicant

V/s.

The State of Maharashtra

... Respondent

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Mr. Naveed N. Momim, Advocate, for the Applicant.

Mr. A.R. Kapadnis, APP for the Respondent-State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 4th MARCH, 2019.

P.C.:

The applicant is seeking the bail in connection with C.R. No. 217 of 2018, registered with Sakinaka Police Station, Mumbai, for the offences punishable under Sections 376 and 506 of Indian Penal Code (hereinafter referred to as 'IPC' for short) read with Sections 4, 8 and 12 of Protection of Children from Sexual offences Act (hereinafter referred to as 'POCSO Act' for short). First Information Report (hereinafter referred to as 'FIR' for short) was registered on 1st April, 2018, at the instance of the victim minor girl aged about 13 years.

2. The prosecution case is that the applicant has been residing with the family of the complainant since last four years. The accused had forcible intercourse with the victim repeatedly since last one and half year. He also threatened the victim and restrained her from informing the said fact to her parents. On 1st April, 2018, while the victim was sleeping, the applicant accused toucher her inappropriately and told her that he would visit the house in the evening for sexual intercourse with her. Due to fear, the complainant ran away from the house. The residents in Arey Colony handed over the victim to the Police Station. Her statement was recorded and the FIR was registered. Statements of witnesses were recorded and on completing investigation, charge-sheet was filed.

3. The applicant preferred an application for bail before the Sessions Court, Borivali Division, Dindoshi, which was rejected by order dated 23rd August, 2018.

4. The learned Advocate for the applicant contends that the applicant has been falsely implicated in this case. Although, the alleged sexual assault had occurred since last one and half year, the victim did not inform the same to any family member and belatedly

the FIR has been lodged. The contents of the FIR indicates that the victim had never raised protest at the earlier point of time. The father of the complainant had taken loan from the applicant. The applicant used to have food with the family of the complainant. The complainant's family refused to return the amount of the applicant. To avoid the payment, false case has been registered against him. Charge-sheet is already filed and further custody of the applicant is not necessary.

5. Learned APP submitted that the offence is of serious nature. The arguments of the applicant can be considered at the time of trial. There is submission to the evidence, showing involvement of the applicant in the crime.

6. I have perused the documents. The applicant is related to the family of the complainant. The victim is aged about 13 years. She was sexually abused and thereafter threatened by the accused. There is no reason to disbelieve the victim. Her statement is also recorded under Section 164 of Code of Criminal Procedure (hereinafter referred to as 'Cr.P.C.' for short). The applicant has been attributed overt-act in both the statements. During course of investigation,

statement of Samshad Umar was recorded on 11th April, 2018, in which he has stated that he had seen the applicant and the complainant together. Statement of Jayshree was recorded on 16th April, 2018, in which she has stated that on 1st April, 2018, she found victim on the road. She was crying, the witness took her to her house, the victim informed that she has been forcibly sexually assaulted by the accused. The medical certificate indicate that sexual intercourse cannot be ruled out. Considering the aforesaid circumstances, no case for grant of bail is made out. Hence, the application required to be rejected.

7. Hence, I pass the following order:

ORDER

Bail Application is rejected.

(PRAKASH D. NAIK, J.)