

Anand

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

BAIL APPLICATION NO. 3331 OF 2018

Indrasan Hiralal Gupta

.Applicant

Vs.

The State of Maharashtra & anr.

.Respondents

Mr. Mahesh Vaswani a/w Ms Dharini Nagda, Mr. Mayank Tripathi & Ms Urshita Jain, Advocate, for the Applicant

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

Mr. Sanjay Kate, PI, Trombay Police Station, Mumbai present

CORAM : REVATI MOHITE DERE, J.

DATE : 08.07.2019

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. 107 of 2018 registered with the Trombay Police Station, Mumbai, for the alleged offences punishable under Sections 376 & 354 of the Indian Penal Code and under Sections 4, 6, 8 & 10 of the Protection of Children from Sexual Offences Act.

3. Perused the papers. According to the Complainant – mother of the prosecutrix, the incident took place on 20.04.2018 at 6.00 p. m., when her daughter (prosecutrix) was playing in a garden. According to the Complainant, the Applicant, known as “Gupta Baba” took her

daughter to PMG Colony behind the Railway Station and inserted his finger in her private part and touched her inappropriately. It is alleged that thereafter, again on 21.04.2018, her neighbour saw the Applicant touching her daughter inappropriately pursuant to which, she informed the Complainant. The statement of the prosecutrix both, recorded under Sections 161 and 164 of the Code of Criminal Procedure is consistent, brief and pointed. The prosecutrix has specifically stated that the Applicant touched her inappropriately and inserted his finger in her private part. The medical case papers, in particular, clauses (VII)(f) shows that the hymen was not intact. The prosecutrix was aged 10 years and the Applicant was aged 49 years. The possibility of the Applicant tampering with the evidence also cannot be ruled out.

4. Considering the aforesaid, this is not a fit case to enlarge the Applicant on bail. Hence, the Application stands rejected.

5. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)