

Anand

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

BAIL APPLICATION NO. 3363 OF 2018

Mohd. Sadik alias Sonu Mohd. Nasir Shaikh .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Gaurav Bhawnani i/b. Mr. Abdul W. Khan, Advocate, for the
Applicant

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

CORAM : REVATI MOHITE DERE, J.

DATE : 03.07.2019

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. 105 of 2018 registered with the Meghwadi Police Station, Mumbai, for the alleged offences punishable under Section 376 of the Indian Penal Code and under Sections 4 & 6 of the Protection of Children from Sexual Offences Act.

3. Perused the papers. According to the prosecution, the incident took place on 22.03.2018 at about 7.30 p. m., when the victim

girl was sleeping in her house. The Applicant is the uncle of the victim girl. The victim girl has alleged that she woke up, as she had pain in her private part. She has alleged that when she woke up, she saw that the Applicant, her uncle had inserted his finger in her private part. She has stated that she pushed the uncle, pursuant to which he ran away. The FIR was lodged on 26.03.2018.

4. Learned counsel for the Applicant submits that there is a delay of three days in lodging the FIR and that there is inconsistency in the statement of the victim girl's aunt, grandmother and the victim girl's mother. He further submits that despite the fact, the victim girl had disclosed the incident to her grandmother and aunt soon after the incident, they did not disclose the same to her mother. He further submits that the statement of the grandmother was recorded after a month and the statement of the victim girl's aunt was recorded after 17 days and as such, there is a delay in recording the said statements, raising doubts on the veracity of the allegations. As far as delay is concerned, in such cases, where the perpetrator of the offence is a relative of the family, delay does not assume much significance. What is pertinent to note is, that the victim girl's statement is consistent with her mother's statement (Complainant). It is also pertinent to note that in the

hospital, the victim girl has re-iterated the incident to the Doctor and the same is consistent with her statement and the FIR.

5. Considering the nature of allegations qua the Applicant, this is not a fit case to enlarge the Applicant on bail. Hence, the Application stands rejected. However, the trial of the Applicant is expedited.

6. Considering the age of the victim girl, learned Sessions Judge to conclude the case as expeditiously as possible and preferably within a period of 12 months from the date of receipt of this order. All parties to co-operate in the conduct of the trial.

7. 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.)