

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO. 299 OF 2019

**BAHADUR KHAN, PRESENTLY IN
JUDICIAL CUSTODY, THR. BARKAT
KHAN.,**

... Applicant

Versus

**STATE OF GOA, AS REP. OFFICER IN
CHARGE, VALPOI POLICE STATION,
VALPOI AND ANR.,**

... Respondents

Shri Iftikhar Agha, Advocate for the Applicant.

Shri Pravin Faldessai, Additional Public Prosecutor for the State.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 30th July, 2020

P.C.

It was the contention of Shri Agha, learned Advocate for the applicant that the medical examination of the applicant showed initially that he was incapable of performing sexual intercourse while the report at a latter date showed to the contrary. The victim too was medically examined for sexual offences and no swabs could be collected since the history of sexual offence was more than 7 days old. The applicant was about 62 years old with medical history and therefore he had to be enlarged on bail on such terms and conditions as may be imposed by the Court.

2. Shri Pravin Faldessai, learned Additional Public Prosecutor

submitted that the victim was 15 years old and the granddaughter of the applicant. The victim's report clearly showed the presence of hymenal tears and which completely ruled out the theory of the applicant of being incapable of performing sexual intercourse. There was every possibility that the applicant would influence the victim to turn hostile in order not to depose against him as he was in a position of trust and to influence the victim being his own granddaughter. The application had therefore to be dismissed.

3. Heard Shri I. Agha, learned Advocate for the applicant and Shri Pravin Faldessai, learned Additional Public Prosecutor on behalf of the State, for some time. However, without going into the merits of the application, it would be in order that directions are issued to the learned Children's Court to expedite the trial of the matter so that the examination of the victim girl is completed at the earliest. Liberty is granted to the applicant to apply for bail afresh on conclusion of the examination of the minor victim considering also the fact that the applicant is in a fiduciary relationship with her and that he is in a position to influence her testimony.

4. In the circumstances, the application for bail is dismissed with liberty to the applicant to apply afresh on the conclusion of the examination of the minor victim girl. The Children's Court is

directed to expedite the hearing of the trial and, particularly, record the statement of the minor victim girl and the applicant shall be at liberty to apply for bail afresh.

5. In the above terms the application stands disposed off.

NUTAN D. SARDESSAI, J.

msr