

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

CRIMINAL BAIL APPLICATION NO. 144 OF 2020

Laxminarayan Kanhaiyalal Gupta ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Vinod N. Tayade, Advocate for the Applicant.
Mrs. P.P. Shinde, APP for Respondent-State.
Mr. P.B. Chavan, A.P.I., Ambarnath Police Station.

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CORAM : SANDEEP. K. SHINDE, J.

DATE : 05th FEBRUARY, 2020.

P.C.

Heard.

1. It is an application under Section 439 of Code of Criminal Procedure, 1973 ("Cr.P.C." for short).
2. Applicant is seeking enlargement on bail in Crime No. 415 of 2019 registered with Ambarnath Police Station for the alleged offences punishable under Section 376(A) & B) of the Indian Penal Code, 1860 (IPC for short) and Sections 4, 8, 12 of the Protection of

Children from Sexual Offences Act, 2012 ("POCSO" for short).

3. It is alleged the applicant had subjected victim of 7 years old to penetrative sexual assault within the meaning of Section 3(b) of POCSO. Victim's statement under Section 164 of Cr.P.C. has been recorded.

4. Learned counsel for the applicant submits that the applicant has been falsely implicated. In support of this contention he has pointed out the statement of victim's mother recorded under Section 164 of Cr.P.C., wherein mother had referred to a incident of sexual harassment of a year old, allegedly caused by the applicant to her daughter. He therefore, submitted had this been the case that victim was sexually assaulted once in the past, mother would not have permitted daughter to go or visit the applicant's house. He nextly submitted that in the complaint lodged by victim's mother, this fact was not disclosed. In other words, it is applicant's case that he has been

falsely implicated by victim's mother.

5. I have perused the statement of victim recorded under Section 164 of Cr.P.C. Victim was a 7 years old when the alleged incident had taken place. Her statement prima facie, discloses applicant's complicity in this subject crime. At this stage, I have no reason to disbelieve the statement recorded under Section 164 of Cr.P.C. The application is therefore, rejected.

6. The applicant is 27 years old married person, and thus, in view of this, the learned trial Court is requested to expedite the trial.

7. Application is rejected and disposed of.

8. It is made clear that observations made hereinabove shall be construed as an expression of opinion only for the purpose of refusal of bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP. K. SHINDE, J.)