

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL BAIL APPLICATION NO. 639 OF 2020.**

Sushant Santosh Mane

... Applicant.

Vs.

State of Maharashtra & Anr.

... Respondents.

Mr. S. M. Gaglani for Appellants.

Mr. S. S. Hulke, A.P.P. for Respondent-State.

**CORAM : A.S. GADKARI, J.**

**DATE : 16<sup>th</sup> December 2020.**

**PC. :**

This is a successive application for bail under Section 439 of Cr.P.C. in C.R. No.73 of 2018 dated 7<sup>th</sup> March 2018 registered with Sahar Police Station, Mumbai under Sections 363, 323, 341, 354, 376(2)(I),(J), (K),(N) read with 34 of the Indian Penal Code and under Sections 4, 6, 8, 10 of the Protection of Children From Sexual Assault Offences Act, 2012 (POCSO Act).

2. The applicant has approached this Court again seeking bail on the ground of parity as the principal accused Lakhan Vijay Pawar has been granted bail by this Court by its Order dated 14<sup>th</sup> January 2020.

3. The role of sexual assault on prosecutrix has been attributed to the principal accused Lakhan Pawar. The role attributed to the applicant is that, at the time of alleged incidents he kept watch at the scene of offence and guarded it. The prosecutrix was abducted from an Auto Rickshaw which was driven by the applicant. The role played by the applicant is lessor than the role played by the principal accused Lakhan Pawar in the present crime. The applicant is therefore entitled to be released on bail on the ground of parity.

4. There is another facet of the present case. The application for bail of principal accused Lakhan Pawar came up for hearing before Co-ordinate Bench (Coram : Shri Sandeep K. Shinde, J.) on 14<sup>th</sup> January 2020 and the same was allowed by the speaking Order. It appears that, the Order of rejecting bail application of the applicant dated 25<sup>th</sup> March 2019 passed by this Court was not pointed out to the concerned Bench by the Investigating Officer and *interalia* therefore by the concerned Public Prosecutor. As noted earlier, this Court by its Order dated 25<sup>th</sup> March 2019 had rejected the application for bail preferred by the applicant who has played role of lessor gravity in the present Crime.

This Court therefore had expressed displeasure about the conduct of the Investigating Officer while briefing the concerned Public Prosecutor on 14<sup>th</sup> January 2020.

Learned A.P.P. submitted that, the said fact has been brought to the notice to the Office of the Director General of Police, Maharashtra State and it will take appropriate remedial measures in that behalf.

5. As noted earlier, the applicant is entitled to be released on bail on the ground of parity.

Hence the following Order :

- (i) Applicant be enlarged on bail in Crime No. 73 of 2018, on executing PR Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (ii) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

6. Application is allowed in the aforesaid terms.

**(A.S. GADKARI, J.)**