

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

CRIMINAL BAIL APPLICATION NO. 3439 OF 2019

Aaliya Shaikh Alias Pooja Aunty ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. P.R. Dave, Advocate for the Applicant.

Mr. S.R. Agarkar, A.P.P. for the Respondent-State.

Mr. Ravindra R. Wani, P.S.I., Antop Hill Police
Station.

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CORAM : SANDEEP. K. SHINDE, J.
DATE : 02nd JANUARY, 2020.

P.C.

Heard.

2. Applicant is seeking enlargement on bail in Crime No. I - 34 of 2019 registered with the Antop Hill Police Station, for the alleged offences punishable under Sections 376, 366A, 506 r/w Section 34 of the Indian Penal Code, 1860 and Sections 4, 8, 12 of Protection of Children from Sexual Offences Act, 2012 ('POCSO' for short) and Sections 3, 4, 5, 6 and 8 of the

Immoral Traffic (Prevention) Act, 1956.

3. Victim's birth certificate shows, as on the date of the alleged incident, she was a minor. Her complaint and a statement under Section 164 of the Criminal Procedure Code, 1973 ('Cr.P.C.' for short) prima-facie, shows this applicant forced the victim was into prostitution and her husband (co-accused) sexually assaulted her.

4. Learned counsel for the applicant has taken me through the statement of victim's mother, maternal aunt, as well as the statement of another witness to contend that, character of victim, as disclosed leads, one to disbelieve her statement under Section 164 of Cr.P.C.

5. Learned counsel for the applicant has criticized the character of the complainant by citing the statement of aforesaid witnesses. He submitted that the applicant is in custody since 26.01.2019 and

the investigation is over. He seeks bail on these grounds.

6. I have gone through the statement of witnesses, complaint and statement of the victim under Section 164 of Cr.P.C.. It is alleged that applicants' husband repeatedly committed sexual assault on the victim. Victim's statement under Section 164 of Cr.P.C. prima facie, suggests, that she was forced into the prostitution, by the applicant. Medical evidence corroborates the allegations of sexual assault. In view of the evidence on record, though the investigation is over, in my view, it is not a fit case to release the applicant on bail.

7. Application is accordingly rejected.

8. At the stage, learned counsel for the applicant, submits that the trial may be expedited.

9. If the trial does not commence within a year

from today, the applicant may renew her request for enlargement on bail.

10. Application is disposed of.

11. 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.

(SANDEEP. K. SHINDE, J.)