

Anand

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

BAIL APPLICATION NO. 1044 OF 2019

**Nisha S.
Chitnis**

Rizvan Ekaramuddin Ansari

.Applicant

Vs.

The State of Maharashtra

.Respondent

Digitally signed
by Nisha S.
Chitnis

Date: 2021.01.13
15:36:10 +0530

Mr. Ashok Kumar Dubey, Mr. Abhinav Dubey & Mr. Dheeraj Jadhav,
Advocate, for the Applicant

Mr. P. H. Gaikwad – Patil, APP, for the Respondent – State

Mr. Vikram Pawar, PSI, Dattawadi Police Station, Pune present

CORAM : REVATI MOHITE DERE, J.

DATE : 12.01.2021

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. 321 of 2018 registered with the Dattawadi Police Station, Pune, for the alleged offences punishable under Sections 363, 366(A), 376, 323, 504, 506 r/w 34 of the Indian Penal Code and under Sections 3 & 4 of the Protection of Children from Sexual Offences Act (for short 'POCSO').

3. Learned counsel for the Applicant submits that the

allegations as against the Applicant are false and baseless. He submits that although the victim girl i. e. the prosecutrix went missing on 29.08.2018, her father lodged a complaint of kidnapping only on 30.08.2018 and that too against unknown persons. He submits that no panchanama of the room where the alleged incident took place in the lodge was prepared by the police, thus, making the prosecution case doubtful. He submits that the Applicant was not even known to the victim girl / prosecutrix and that the Applicant has no antecedents.

4. Learned APP opposed the Application. He submitted that a perusal of the statement of the victim girl, a minor as well as the statement of the lodge owner, where the prosecutrix was sexually assaulted would clearly show the complicity of the Applicant.

5. Perused the papers. It appears that on 29.08.2018, the victim girl, aged 16 years went missing. As the victim girl did not return home, her father lodged a complaint with the Dattawadi Police Station, Pune alleging that some unknown persons had kidnapped her. The victim girl, aged 16 years was found on 31.08.2018, pursuant to which, her statement was recorded. In her statement dated 31.08.2018, the victim girl has in detail set out what transpired on 29.08.2018 and

30.08.2018. She has alleged that as her mobile had broken, her friend – Ujwala took her to repair the same to the house of the co-accused – Dashrath. She has in detail stated how the co-accused – Dashrath sexually assaulted her on 29.08.2018 as well as on 30.08.2018. She has stated that her friend – Ujwala, thereafter, took her to meet the Applicant on the pretext that he would repair her mobile. She has again in detail stated how the present Applicant forcibly sexually assaulted her on 30.08.2018. Pursuant to her statement, the police arrested all the accused for the aforesaid offences. The statement of the victim girl has also been recorded under Section 164 of the Code of Criminal Procedure. On 10.09.2018, the additional statement of the victim girl was also recorded. Admittedly, the prosecutrix did not know the Applicant and that the Applicant was introduced to her by her friend – Ujwala and therefore, the question of falsely implicating the Applicant would not arise. The statement of the Lodge Manager – Amit Sarkar shows that the Applicant had booked Room No. 203 and had disclosed the name of the prosecutrix as Reshma. The record of the entry made in the lodge register by the Applicant was produced by the Lodge Manager and is part of the Chargesheet.

6. The allegations as against the Applicant are serious and if

the Applicant is enlarged on bail, the possibility of the Applicant threatening / intimidating or tampering with the witnesses cannot be ruled out.

7. Considering the aforesaid, no case is made out for grant of bail. Accordingly, the Application stands rejected.

8. 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.)