

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2158 OF 2021**

Leena Thakkar

... Petitioner

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr.Bhavesh Parmar a/w. Mr.Rahul Gaikwad, Ms.Ritika Bharadia and Ms.Gauri Govilkar i/b. Gravitas Legal for Petitioner.

Smt.Rutuja Ambekar, A.P.P for Respondent No.1-State.

Mr.Prasad Borkar for Respondent No.2.

CORAM : A.S. GADKARI, J.**DATE : 16th June 2021.****(Through Video Conferencing)****PC. :**

Mr.Parmar, learned counsel for the Petitioner on instructions submitted that, after filing of the present Petition, on the representation made by the Petitioner, the State of Maharashtra has appointed Advocate Smt.Geeta Sharma, as a Special Public Prosecutor in the present case, i.e. Special Case No. 155 of 2020, pending on the file of learned Additional Sessions Judge, Borivali Division, Dindoshi, Mumbai. He further on instructions submitted that, as per Roznama, the bail application filed below Exhibit-29 by the Respondent No.2 is kept for 'hearing' on 22nd June 2021 by the Trial Court.

2. Mr.Borkar, learned counsel for the Respondent No.2, on instructions, submitted that, as a matter of fact the Trial Court has kept the said bail application (Exhibit-29) for 'passing of Orders' on 22nd June 2021.

3. Perusal of record indicates that, it is the grievance of the Petitioner/First informant that, she was not permitted to make oral submissions at the time of arguments of the said bail application and the learned A.P.P. who was appearing therein did not argue in opposition of the said application, at length. The application preferred by the Petitioner for intervention was partly allowed by the Trial Court and her Advocate was permitted to file written submissions at the stage of hearing of bail application, which in fact the Petitioner has done.

4. The law relating to granting opportunity to the informant of being heard in proceedings is elucidated by the Hon'ble Supreme Court in the case of *Sundeep Kumar Bafna Vs. State of Maharashtra, reported in (2013) 7 SCC 466*. Section 32 of the Protection of Children from Sexual Offences Act (POCSO Act) provides for appointment of Special Public Prosecutor by the State by a notification for every Special Court for conducting cases under the provisions of POCSO Act.

5. In view of the subsequent event that, the State has now appointed Special P.P. to conduct Special Case No. 155 of 2020 pending on the file of learned Additional Sessions Judge, Borivali Division, Dindoshi, Mumbai, it will

be appropriate in the interest of justice, to grant an opportunity to the said Special Public Prosecutor to argue the matter on behalf of the State before the Trial Court passes Order on Exhibit-29 i.e. bail application filed by the Respondent No.2.

6. As noted earlier, the said application filed below Exhibit-29 is scheduled for hearing/passing Orders by the Trial Court on 22nd June 2021. In view of the above, the learned Additional Sessions Judge, Borivali Division, Dindoshi, Mumbai seized of Special Case No. 155 of 2020 is directed to hear the Special Public Prosecutor on that day and pass appropriate Orders on the said application filed below Exhibit-29 for bail by the Respondent No.2, as per the provisions of law.

7. It is expected that, the Special Public Prosecutor appearing therein, will go through the record of the present case and without taking any adjournment will make an endeavour to conclude her arguments on 22nd June 2021.

Learned Advocate for the respondent No.2/accused is also granted liberty to advance arguments in rejoinder to the arguments of the learned Special Public Prosecutor. If the arguments of learned Special Public Prosecutor or the learned Advocate for the respondent No.2/accused could not be concluded on 22nd June 2021 for any reason, the Trial Court will continue to hear the arguments of learned Advocate for the respondent No.2/

accused on the next date and conclude hearing of the said application as expeditiously as possible. It is also expected from the Trial Court to pass appropriate Orders, as per the provisions of law on the said application preferred below Exhibit-29 for bail by the Respondent No.2 expeditiously. This direction is issued in view of the fact that, the said application for bail is pending for about six months.

8. In view of the above, the grievance of the Petitioner so also the Respondent No.2 is taken care of.

The Petition therefore does not survive and is accordingly disposed off.

[A.S. GADKARI, J.]