

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

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S.
Chitnis

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CRIMINAL BAIL APPLICATION NO. 1017 OF 2020

Sanjay Shubhanarayan Patel

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Sunil R. More i/b Ms. Rakhee Gadhankush, Advocate for the Applicant.

Mr. P. H. Gaikwad, APP for State-Respondent.

Mr. P. B. Desai, PSI, Malvani Police Station, Mumbai present.

**CORAM : REVATI MOHITE DERE, J.
DATE : FRIDAY, 15th JANUARY 2021**

P.C. :

1. Heard learned counsel for the parties.
2. This is the second bail application preferred by the applicant. The first bail application of the applicant was withdrawn when this court was not inclined to enlarge the applicant on bail. However, having regard to the age of the victim girl and the fact that she is mentally challenged, the trial of the applicant was expedited by the said order dated 17th September 2019. The trial judge was directed to conclude the trial as expeditiously as

possible and in any event, within 12 months from the date of the order dated 17th September 2019. It is informed that charge was framed on 11th December 2019, however, thereafter there is no progress in the said case. It appears that due to the lockdown, the trial could not proceed within the said time period.

3. Learned counsel for the applicant seeks bail on merits. He submits that the allegations as against the applicant are false and baseless and that there is no material to suggest that the victim girl was raped/sexually assaulted. He submits that the age of the victim girl is not 8 years as stated but around 13 years. He submits that the applicant has no antecedents and the question of absconding does not arise, as the applicant is a permanent resident of Mumbai.

4. Learned APP opposes the bail application. He has produced the statement of the victim girl aged 8 years under Section 164 of the Cr. P. C.

5. Perused the papers. The first bail application filed by the applicant was withdrawn after arguing for some time, as this Court (Coram: Revati Mohite Dere, J) was not inclined to enlarge the applicant on bail. The same is recorded in the order dated 17th September 2019 passed in Criminal Bail

Application No. 1514/2019. However, having regard to the age of the victim girl and that she is mentally challenged, the trial of the applicant was expedited and the trial court was directed to conclude the case as expeditiously as possible, and in any event, within 12 months from the date of the receipt of the order. It appears that charge has framed in the said case on 11th December 2020, however, thereafter it appears that there is no progress in the case because of the pandemic.

6. So far as the merits of the are concerned, it appears that the incident took place on 29th December 2018 at around 9.00 p.m., when the victim girl, aged 8 years, had gone to the grocery shop. As the victim girl did not return, her mother (complainant) went in search of her and asked the grocery shop owner, who told her that he had seen the victim girl with a drunkard (applicant) in their locality. Pursuant thereto, the informant (victim's mother) and her husband reached the residence of the applicant and on entering the house of the applicant they saw the victim girl was sitting on the loft of the house. When the victim girl was questioned, she disclosed that the applicant had taken her to this house, closed the door, removed his clothes and touched her private part inappropriately. The medical certificate of the victim girl shows that she was suffering from moderate intellectual disability. The statement of the victim girl recorded

under Section 164 of the Cr. P. C. also prima facie shows the complicity of the applicant.

7. Considering the serious allegations against the applicant, this is not a fit case to enlarge the applicant on bail. Accordingly, the application is rejected. However, as directed by the earlier order dated 17th September 2019 passed in criminal bail application no. 1514/2019, the learned Sessions Judge to conclude the case as expeditiously as possible and in any event within six months from the date of receipt of this order.

8. Application is accordingly rejected.

9. Learned trial judge to conduct the case on its own merits uninfluenced by the observations made in this order.

10. All concerned to act on the digitally signed by the Personal Assistant/Private Secretary of this order.

REVATI MOHITE DERE, J.