

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

BAIL APPLICATION NO. 2141 OF 2019

Prasad Sanjay Gade

..Applicant

v/s.

The State of Maharashtra

..Respondent/s

Mr. Aniket Nikam for the Applicant .

Mrs. G.P.Mulekar, APP for the Respondent-State.

Mr. Satish Maneshinde for the Respondent No.2.

CORAM : ANUJA PRABHUDESSAI, J.

DATED : JULY 19, 2021.

P.C.

1. This application under Section 439 of Cr.P.C. is filed by the Applicant who has been facing trial in Special Case (POCSO) No. 241 of 2019 for offences under Section 376(2)(i) of IPC and Sections 3, 4, 7 and 8 of Prevention of Children from Sexual Abuse Act, 2012.

2. Heard Shri Aniket Nikam, learned Counsel for the Applicant, Mrs. Mulekar the learned APP for the State, and Mr. Mane Shinde , the learned Counsel for the Respondent No.2. I have perused the records and considered the submissions.

3. The aforestated case arises from Crime No. 121 of 2019, dated 1.4.2019, registered with Kothrud Police Station, pursuant to the First Information Report lodged by the maternal aunt of the victim. The FIR prima facie reveals that the victim who is the niece of the first informant had come to stay with her during the summer vacation. On 1.4.2019, about 7.00 p.m. she saw the victim crying in the house and when she questioned her, the victim told her that the Applicant had committed penetrative sexual assault when she had been to his house to watch TV.

4. The statement of the victim also prima facie indicates that the Applicant had committed penetrative sexual abuse. The Statement of Deepali prima facie reveals that she had seen the victim in the house of the Applicant and the statement of Kajol Bhagat reveals that she had seen the victim running away from the house of the Applicant. The statements of these two witnesses prima facie corroborate the statement of the victim.

5. The victim was below below 14 years of age. The material placed on record prima facie shows the involvement of the Applicant in subjecting the victim to penetrative sexual assault. The Applicant is the son of the paternal aunt of the victim.

Considering the nature and gravity of the offence, as also the relationship between the Applicant and the Accused, this is not a fit case to enlarge the Applicant on bail. Hence the application is dismissed.

6. Considering that the Applicant is in custody since 2019, the Special Court is directed to conclude the trial as expeditiously as possible, and in any event to record evidence of the victim within a period of four months from the date of this Order.

PRASANNA P
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(ANUJA PRABHUDESSAI, J.)