

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

BAIL APPLICATION NO.2735 OF 2019

Shambhu Gokul Viswas .. Applicant

Versus

State of Maharashtra .. Respondent

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Mr.Shaikh Abdul Kalam, Advocate for the Applicant.

Mr.R.M. Pethe, APP for the Respondent - State.

Mr.Ghanshyam Nair, PI Crime Branch, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : JULY 28, 2021.

P.C. :

This is an application for bail in connection with C.R.No.226 of 2017, registered with Dindoshi police station, Mumbai, for the offences punishable under Sections 363 and 376(2) of Indian Penal Code ("IPC", for short) read with Section 5 and 6 of The Protection of Children from Sexual Offences Act ("POCSO Act", for short).

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2 The First Information Report ("FIR", for short) was lodged on 19th March, 2017, by the mother of the victim child

alleging that from 18th March, 2017, the victim was missing from the house. The offence was initially registered under Section 363 of IPC. Search was conducted and victim was traced. On inquiry with her, the victim child aged about 6 years had disclosed that the accused had sexually assaulted. Statement of the victim was recorded. Accused was arrested on 19th March, 2017. On completing information, charge-sheet is filed.

3 Learned advocate for the applicant submits that the case of prosecution is full of discrepancies. The offence under Section 376 of IPC is not made out. The applicant is in custody for four years and three months. There is no progress in the trial. There are no criminal antecedents against the applicant.

4 Learned APP vehemently opposed the application for bail. It is submitted that the offence is of serious nature. The victim girl is a small child aged about 6 years. She had attributed specific overtact to the applicant. Merely on the ground of delay, bail may not be granted to the applicant in a heinous offence. Statement of the victim child cannot be discarded at this stage.

5 I have perused the statement on record. After the

victim was missing, complaint was lodged with the police station. On search, the door of the house of the applicant was found closed and on opening, it was found that the victim child was hiding below the bed. Statement of victim was recorded. She attributed specific role to the applicant. Considering the nature of offence, there is no reason to pass an aspersion on the statement of the victim. The most pertinent thing is that the victim is found in company of the applicant in the premises. The statement of victim inspire confidence. Considering the circumstances, no case for grant of bail is made out. However, it is noticed that the applicant is in jail for more than four years. The matter is due for framing of charge. It would be appropriate to direct the trial Court to conclude the case expeditiously.

:: ORDER ::

- (i) Bail Application No.2735 of 2019, is rejected;
- (ii) Trial is expedited;
- (iii) Trial Court shall make an endeavour to complete the trial within six months from the date of receipt of the order;

(iv) Bail Application No.2735 of 2019, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)