

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

**BAIL APPLICATION NO. 4238 OF 2021
(THROUGH JAIL)**

Mirza Galib Sadiq Ali ..Applicant

VS.

The State of Maharashtra ..Respondent

Adv. Dushyant Pagare for the Applicant.

Ms. P. N. Dabholkar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : MARCH 3, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail through jail by the applicant- Mirza Galib Sadiq Ali in connection with C.R. No.229 of 2017 dated 02/07/2017, registered with Oshiwara Police Station, under sections 376(2)(1) and 354 of the Indian Penal Code, 1860.
- 3.** The applicant was arrested on 02/07/2017 and is in custody for 5 years and 6 months. Learned counsel for the applicant states that the applicant is 62 years of age and considering that he is in custody for more than 5 years and 6 months the applicant may be released on bail.

4. It is further submitted that though the victim alleged that there was rain on that day and she took shelter near the applicant's shop. Learned counsel for the applicant states that the RTI information obtained on 03/07/2019 from Meteorological Department shows that there was no rain on the day of incident and therefore the version of the prosecution is doubtful. On record is a statement of a witness, a boy of 13 years who witnessed the incident. He was abused by the applicant. He took the victim to her home. The victim is a special child.

5. Learned APP pointed out that the trial has commenced and 2 witnesses have already been examined. The trial is proceeding on weekly basis. Around 14 witnesses have to be examined. Some of them are panch witnesses. As the trial is progressing, I am not inclined to release the applicant on bail as the trial can be expedited.

6. The application stands rejected.

7. Liberty is granted to the applicant to apply after 6 months if the trial does not proceed substantially.

8. I appreciate the assistance rendered by Adv. Dushyant Pagare who appeared on behalf of the applicant in these proceedings, to assist this Court.

(M. S. KARNIK, J.)