

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

CRIMINAL APPLICATION NO. 2345 OF 2015.

GANESH S/O KACHARU JANGLE.

VERSUS

THE STATE OF MAHARASHTRA.

Appearance =>

Mr. Rajendra G. Hange, Advocate for the Applicant.

Mr. A.S. Shinde, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 30th June, 2015.

Per Court :-

Present Criminal Application is filed by the Applicant for grant of regular bail in connection with CR No.9/2015 registered with Police Station, Talwada, Taluka – Georai, District - Beed for the offences punishable under Section/s 363, 366, 506, 376(D) read with 34 of the Indian Penal Code and under Section 4 of the Protection of Children from Sexual Offences Act, 2012.

[2] Heard Mr. Rajendra G. Hange, learned counsel for the Applicant and Mr. A.S. Shinde, learned Additional Public Prosecutor for the State.

[3] First Information Report is lodged by Arun Sakharam Kokat, who is maternal grandfather of the prosecutrix. Prior to 5 to 6 months of incident, prosecutrix married with Anil Vaijinath Kokat. As there was matrimonial discord between the prosecutrix and her husband, she started to reside with the first informant.

First Information Report further disclosed on 15th January, 2015 at 8 O'clock in night, the prosecutrix left her house on the pretext to answer the nature's call. However, she did not return. On 16th January, 1995 according to the First Information Report, one Dnyaneshwar, who is also one of the accused in the present Crime made a telephonic call to the first informant that the prosecutrix is brought at Georai and he should take her along with him. According to the First Information Report, present Applicant was with the said Dnyaneshwar Gade.

[4] The applicant is arrested on 21st January, 2015. The investigation is over and charge sheet is already filed. Statement of prosecutrix is also recorded. According to the learned Additional Public Prosecutor, age of the prosecutrix is below 18 years. In the charge sheet, there is document which is styled as 'Forensic Medical Examination Report of Age Estimation' of alleged victim of sexual assault. In the said document, date of birth of the prosecutrix is shown as 27th September, 1996; that means, on the date of incident, the prosecutrix was 19 years age.

[5] I have gone through the statement of the prosecutrix. The submission of the learned Additional Public Prosecutor that, at the relevant time, age of the prosecutrix was below the age of consent, will have to be decided at the stage of trial, especially when from the documents placed on record, date of birth of the prosecutrix appears as 27th September, 1995. Statement of the prosecutrix prima facie would reveals that she was a consenting party. That leads me to pass the following order :-

ORDER

- (i) Criminal Application is allowed.
- (ii) Applicant - GANESH S/O KACHARU JANGLE shall be released on regular bail on he executing PR. Bond of Rs. 25,000/- [Rs. Twenty Five Thousand.] with two solvent sureties in the like amount, in connection with CR No.9/2015 registered with Police Station, Talwada, Taluka – Georai, District - Beed for the offences punishable under Section/s 363, 366, 506, 376(D) read with 34 of the Indian Penal Code and under Section 4 of the Protection of Children from Sexual Offences Act, 2012.
- (iii) Bail before trial court.

(iv) The applicant shall not indulge himself in any manner what so ever, thereby, creating prejudice to the prosecution case.

(v) Observations made in this order are prima facie in nature and the trial court who will be seisin shall not get himself influence by any observation made in this order.

(vi) With this Criminal Application is allowed and same is disposed of, accordingly.

(V.M. DESHPANDE, J.)