

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2953 OF 2015

Piyuesh (Piyush) Prakash Shelke,
Age : 23 years, Occu. Nil & Education,
R/o Kalsha Building, Vaibhav Colony,
Nawa Mondha, Jalna

APPLICANT

VERSUS

The State of Maharashtra,
through Police Station Officer,
Sadar Bazar Police Station,
Jalna, Tq. & Dist. Jalna

RESPONDENT

Mr. Suhas B. Ghute, Advocate for the applicant
Mrs. B.B. Gunjal, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 02/07/2015

ORAL ORDER :

1. Heard both sides.
2. The present applicant, who is arrested by Sadar Bazar Police Station, Jalna, District Jalna in Crime No. I-183/2014, registered for the offences punishable under section 376, 377, 506 of the I.P. Code and under section 3 and 4 of the Protection of Children from Sexual Offences Act, 2012, is praying for his release on bail.

3. The allegations against the applicant are that on 30th May, 2014 at about 11.00 a.m. in the morning, he enticed a six years old daughter of his neighbour to his house and there-at, he brushed his penis over her vagina. Thereafter, he had a fellatio with her. One of the neighbours had seen the victim being taken away by the present applicant to his house. The family, however, did not think it fit to lodge any report. However, since, according to them, there was certain threatening, the mother ultimately filed the FIR on 3rd June, 2014.

4. The medical examination of the victim would show that the congestion over external genitals was found and the touch was painful.

5. The learned counsel for the applicant submitted that the FIR is belated. False complaint is made. The injuries do not show that there was any insertion. The trial may take its own time. Hence, he submitted that the applicant be released on bail.

6. The learned A.P.P. opposed the application. She submitted that there is corroboration in the nature of medical examination of the victim and the trial may end within a period of two months.

7. The earlier application of the present applicant, bearing Criminal Application No. 5507/2014, for similar relief, was allowed to be withdrawn by this court vide order dated 13th November, 2014 with liberty to file similar application in case the trial is not concluded within a period of six months.

8. In the circumstances, a report was called from the learned Sessions Judge, which would show that the victim was not cited as prosecution witness and therefore, the issue of calling her as witness as per provisions of section 311 of the Code of Criminal Procedure is to be decided very soon. Thereupon, at the most, the victim as well as the Investigating Officer will have to be examined and the trial would conclude. According the learned Sessions Judge, two months' time may be required for undertaking all this exercise.

9. Considering all the above facts on record, in my view, this is not a fit case for releasing the applicant on bail, in the background of above circumstances. The application is, therefore, dismissed.

[M.T. JOSHI]
JUDGE

npj/criapln2953-2015