

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

CRIMINAL APPLICATION NO. 3057 OF 2015.

**GORAKH S/O BABU PATTEKAR
VERSUS
THE STATE OF MAHARASHTRA.**

Appearance =>

Mr. N.R. Bhavar, Advocate h/for Mr. Vishnu M. Jaware,
Advocate for the Applicant.

Mr. V.H. Dighe, Additional Public Prosecutor for the State of
Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 1st July, 2015.

Per Court :-

Present Criminal Application is filed by the Applicant for grant of regular bail in connection with CR No. 37/2015 registered with Police Station, Ghansawangi, District– Jalna for the offences punishable under Section/s 354(D), 376(i)(n) of the Indian Penal Code and under Section 5(j)(ii), (L) (M), 6 of the Protection of Children from Sexual Offences Act, 2012.

[2] Heard Mr. N.R. Bhavar, learned counsel for the Applicant and Mr. V.H. Dighe, learned Additional Public Prosecutor for the State of Maharashtra.

[3] Investigating agency has completed the entire investigation and already charge sheet is presented in the court of law. First Information Report is lodged by grand-mother of the prosecutrix. Statement of prosecutrix is also recorded.

[4] Report of radiologist is available on record which shows that, age of the prosecutrix is between 17 to 19 years.

[5] The learned Additional Public Prosecutor submitted that as per the Admission Register, prosecutrix is minor. However, date mentioned in the Admission Register is not conclusive proof. Thus, presently on record there is discrepancy about the age of prosecutrix. The prosecution will be obliged to prove the exact age of the prosecutrix during the course of trial. Since, presently two different age of prosecutrix are available, one favouring the accused is to be accepted.

[6] Though according to the prosecutrix, she was ravished against her will, till there was pregnancy to her, it was never reported by the prosecutrix to anybody, therefore, prima facie, it appears that, it is a case of consent.

[7] Charge sheet is already file, therefore, further custodial presence of present Applicant in jail, is not necessary, especially, when there is prima facie evidence available on record about her age that, she has attended the age of consent. That leads me to pass the following order :-

ORDER

- (i) Criminal Application is allowed.
- (ii) Applicant - GORAKH S/O BABU PATTEKAR shall be released on regular bail on he executing P.R. Bond of Rs.5,000/- [Rs. Five Thousand.] with one solvent surety in the like amount, in connection with CR No. 37/2015 registered with Police Station, Ghansawangi, District–Jalna for the offences punishable under Section/s 354(D), 376(i)(n) of the Indian Penal Code and under Section 5(j)(ii), (L) (M), 6 of the Protection of Children from Sexual Offences Act, 2012.
- (iii) Bail before trial court.
- (iv) The Applicant shall not pressurize the prosecutrix or any other prosecution witnesses.
- (v) With this Criminal Application is allowed and same is disposed of, accordingly.

(V.M. DESHPANDE, J.)