

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3482 OF 2015

ASHWIN RAJU KEDARI  
VERSUS  
THE STATE OF MAHARASHTRA

...  
Advocate for Applicant : Mr. Rajendra K. Temkar  
APP for respondent : Mr. V.H. Dighe,  
Mr. A.N. Nagargoje, Advocate for father of victim

CORAM : V.M. DESHPANDE, J.  
DATE : 27TH JULY, 2015.

**PER COURT:**

1] Heard Shri Temkar, learned counsel for the applicant, Shri V.H. Dighe, learned APP and Shri A.N. Nagargoje, learned counsel for the father of the victim.

2] This is an application for regular bail. The applicant is arrested in connection with Crime No. 46 of 2015 for the offence punishable under Sections 363, 366A, 376, 109, 110, 114, 120-B of IPC and under Section 7 and 8 f the Protection of Children from Sexual Offences Act, 2012.

3] The applicant is arrested on 8.6.2015 in relation to the present crime and since then he is in jail. The age of the prosecutrix is 17 years and 9 months. On earlier occasion, a crime was registered against the present applicant vide Crime No. 217 of 2014 with Shrirampur city police station for the offence punishable under Sections 363, 366, 376(2)(J) of IPC. The said crime ultimately culminated into Sessions Case No. 49 of 2014.

4] The learned Additional Sessions Judge, Shrirampur, vide his judgment and order dated 20.1.2015 acquitted the present applicant from

the said crime.

It is reported that against the said acquittal, the complainant - father of the girl has filed a criminal appeal before this Court vide Criminal Appeal No. 362 of 2015 and the same is still pending.

5] On 27.2.2015 a crime was registered against the present applicant and against his parents with Chhawani police station for the offence punishable under Sections 366(A) r/w. 34 of IPC. The said crime was registered on the basis of the report lodged by the mother of the victim.

6] In the meanwhile, father of the girl filed Criminal Writ Petition No. 437 of 2015 before this Court for Habeas Corpus. According to reply filed on behalf of the investigating Officer, the girl suo motu appeared before the police authorities of Chhawani police station on 18.5.2015, where, she made a statement before the police that she is not willing to reside with her parents. In that view of the matter, this Court on 19.5.2015 passed an order in Criminal Writ Petition NO. 437 of 2015 and directed that the victim be kept in a Remand Home at Aurangabad.

On 9.6.2015, the girl was produced before this Court before this Court. The girl showed her willingness to reside in the remand home rather with her parents. Hence, on 9.6.2015, the Division Bench of this Court, directed that the girl be kept in the Remand Home.

7] The girl was produced before the Magistrate for recording her statement under Section 164 of Cr.P.C. After her statement was recorded and she was brought to the Remand Home, according to allegations made in Crime No. 46 of 2015, the present applicant came near the gate of the Remand Home and that time, the victim girl gave a jerk to the lady constable and ran away with the present applicant. Accordingly the present crime is registered.

8] In the present crime, the applicant is arrested on 8.6.2015. In the present crime also, learned APP Shri Dighe, submitted that the statement of the girl under Section 164 of Cr.P.C. is recorded. From the perusal of the said statement, which was made available to this Court, it is clear that there are no allegations against the present applicant in so far as the offence under Section 376 is concerned.

9] The allegations, therefore, are that the applicant has taken away the girl of the age of about 17 years and 9 months, from the lawful custody of the Remand Home.

After perusal of the investigation papers and after submission of the learned APP that the entire investigation in so far as Crime No. 46 of 2015 is concerned is over and only formality of filing of charge sheet is remained to be done, looking to the aspect that there are no allegations against the present applicant in Crime No. 46 of 2015 that she was sexually exploited or ravished by the present applicant, in my view, it is a fit case wherein the Court should exercise discretion in favour of the applicant, however, by imposing certain conditions. That leads me to pass the following order :-

(i) Present Criminal Application is hereby allowed.

(ii) Applicant Ashwin Raju Kedari be released on bail in connection with Crime No. 46/2015 registered with Chhawani police station, District Aurangabad for the offences punishable u/s. 363, 366A, 109, 110, 114, 120-B of the Indian Penal Code and U/s. 7 and 8 of the Protection of Children from Sexual Offences Act, 2012, on he executing P.R. Bond of Rs. 5,000/- [Rupees Five Thousand] with one solvent surety in the like amount.

(iii) Bail before the trial court.

(iv) Present applicant shall attend Chhawani police station once a week preferably on every Sunday between 3.00 and 5.00 p.m. till the charge sheet is filed.

(v) The applicant shall not try to pressurize the victim girl.

(vi) With these observations, present criminal application is disposed of.

[V.M. DESHPANDE,J]

grt/-