

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

CRIMINAL APPLICATION NO. 3513 OF 2015.

THE STATE OF MAHARASHTRA.

VERSUS

PRAMOD S/O SURESH GAYKAR.

Appearance =>

Mrs. Prtaibha Bharad, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 14th July, 2015.

Per Court :-

This is an application filed on behalf of the State under Section 439(2) of the Code of Criminal Procedure for cancellation of regular bail granted in favour of Non-Applicant by the learned Additional Sessions Judge, Sangamner, District – Ahmednagar vide his order dated 21st May, 2015 passed in Criminal M.A.No.84/2015, whereby the learned trial court has granted the bail in favour of Non-Applicant in connection with CR No. I 50/2015 registered with Police Station, Akole, District – Ahmednagar for the offences punishable under Section/s 363, 366(A), 376 of the Indian Penal Code and under Section/s 4, 8, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012..

[2] Heard Mrs. Pratibha Bharad, learned Additional Public Prosecutor.

[3] First Information Report is lodged by Shivaji Baban Aarothe, father of the prosecutrix. First Information Report was lodged against the unknown person. Prosecutrix was required to be admitted in the Hospital due to pains. After she was admitted in the Hospital of Dr. Vaibhav Gaikar, it was revealed that the prosecutrix is carrying pregnancy of 5 to 6 months. Thereafter, she delivered a dead child.

[4] Initially, upon enquiry, prosecutrix did not disclose name of the Non-Applicant however, upon insistence, she disclosed the name of Non-Applicant saying that, she was having love affair with the Non-Applicant and in view of such love affair, they came into physical contact with each other, resulting into the pregnancy.

[5] Thereafter, Non-Applicant was arrested. He was sent into police custody remand and thereafter he was sent into magisterial custody remand and thereafter bail application was moved.

[6] The learned trial court has rightly considered the fact that, after completion of PCR and since the Non-Applicant was in MCR, further custodial presence of the Non-Applicant was not required. Further in so far as age of the prosecutrix is concerned, even according to the prosecution, age of the prosecutrix is 17 years. That particular aspect will have to be conclusively proved by the prosecution during the course of trial. However, suffice to say, prima facie, it is clear that the prosecutrix has attained the age of understanding. Her statement would reveal that, she was in love with the Non-Applicant. In that view of the matter, all these aspects are

rightly considered by the trial court, while granting the bail, in favour of the Non-Applicant, warranting no interference at the hands of this court. Hence, I proceed to pass the following order :-

ORDER

Criminal Application is rejected.

(V.M. DESHPANDE, J.)