

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 4930 OF 2015

Gorakh Dunda Padmere,
R/o. Village Pandshet, Tal. Akole,
Dist. Ahmednagar.

...Applicant

versus

State of Maharashtra,
Through Police Station In-charge
Rajur Police Station, At Rajur,
Tal. Rajur, Dist. Ahmednagar.

...Respondent

.....
Mr. Vinod Y. Bhide, Advocate for applicant
Mrs. M.A. Deshpande, A.P.P. for respondent
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CORAM : N.W. SAMBRE, J.

DATE : 30th SEPTEMBER, 2015

ORAL ORDER :

The applicant was arrested on 01/06/2015 in Crime No.I-33/2015 registered with Rajur police station, District Ahmednagar, for the offence punishable under Sections 376(2)(I)(N), 363, 366(A), 323, 504, 506 read with Section 34 of the Indian Penal Code read with Section 4,5(G)(L), 6 of the Protection of the Children from Sexual Offences Act.

2. The allegation against the present applicant is that with the aid of three accused, he has committed crime in question. The

prosecutrix Usha, who is alleged to be 15 years of age, was in the custody of main accused Rohidas from January-2015 to May-2015 and for at least two months, she was kept at his relative's house, during which period she was intermittently sexually assaulted.

3. Upon perusal of F.I.R. and statement, according to learned Counsel for the applicant does not depict probable story of the commission of crime. According to him, role attributed to present applicant and that of main accused is altogether different. *Prima facie*, according to him, this is a case of consent and in view of the completion of investigation in the matter, custody of the applicant is no more required and as such, prayed for grant of regular bail.

4. Mrs. Deshpande, learned A.P.P. strongly opposed the application on the ground that there is direct evidence available against the applicant in the matter of commission of crime in question. According to her, cause of lodging delayed F.I.R. is very much explained. Based on the material that is brought on record, she prayed for rejection of the application.

5. From the record, it depicts that prosecutrix Usha left her village Penshet in January 2015 alongwith the applicant and main accused Rohidas and was subjected to sexual assault.

6. Thereafter, it is claimed that said Usha remained in custody of main accused Rohidas for period of five months of which admittedly, in clear terms, has stated that she has resided in the same village Pendshet in which her parents were residing alongwith main accused Rohidas in his house for a period of two months.

7. She has not volunteered to make any complaint or to go to her parent's place during the period of said two months though residing in the same village. Apart from above, from the record it is revealed that parents of Usha have also not lodged any complaint for a period of five months, rather from statement it appears that they voluntarily taken custody of prosecutrix Usha from the accused Rohidas. This conduct itself create a serious doubt about the involvement of applicant.

8. In view of above referred back ground, in my opinion, involvement of applicant in the offence alleged for the purpose of consideration of bail appears to be improbable.

9. In view thereof and having regard to the fact that the investigation in the matter is already completed, no fruitful purpose will be served in detaining the applicant.

10. In view above, the application stands allowed.

The applicant be released on bail, upon furnishing P.R. Bond of Rs.10,000/- (Rs. Ten thousand) with one surety in the like amount, in connection with Crime No.I-33/2015 registered with Rajur police station, District Ahmednagar, for the offence punishable under Sections 376(2)(I)(N), 363, 366(A), 323, 504, 506 read with Section 34 of the Indian Penal Code read with Section 4,5(G)(L), 6 of the Protection of the Children from Sexual Offences Act.

[N.W. SAMBRE, J.]