

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

CRIMINAL APPLICATION NO. 5267 OF 2015

Ganesh s/o Jailal Chavan **APPLICANT**

V E R S U S

The State of Maharashtra **RESPONDENT**

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Mr. N.L.Choudhari h/f Mr. N.S.Ghanekar,
Advocate for Applicant.

Mr. A.R.Kale, A.P.P. for Resp. - State.

Mr. A.D.Soman, Advocate to assist A.P.P.

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CORAM : INDIRA K. JAIN, J.

DATE : 3rd DECEMBER, 2015

ORAL ORDER :-

. Here is an application for regular bail in Crime No. I-133/2014 registered at Begampura police station, district Aurangabad for the offences punishable u/ss 376,363 read with section 34 of the Indian Penal Code and u/ss 3 and 7 of the Protection of Children from Sexual Offences Act.

2. Heard Mr. N.L.Choudhari holding for Mr. N.S.Ghanekar, learned counsel for applicant and Mr.

A.R.Kale, learned A.P.P. for Respondent – State. Perused case papers.

3. F.I.R. was lodged on 19/08/2014. It is stated by Magan Govind Rathod in F.I.R. that on 16/08/2014 after his wife and daughter came home from the field, wife was cooking food and daughter went to answer nature's call. She did not return. They made her search. She was not found. It is alleged that applicant kidnapped his daughter. So offence u/s 363 of the Indian Penal Code was registered initially.

4. On 27/08/2014 victim and applicant voluntarily surrendered before police. Parents of victim refused to take her custody as her medical examination was to be done. She was then sent to observation home.

5. On 04/11/2014 parents of victim moved an application for her medical examination. After her medical examination it was revealed that prosecutrix was ravished and then offence u/s 376 of the Indian Penal Code and sections 3 and 7 of the Protection of Children from Sexual Offences Act came to be added.

6. Learned counsel for applicant submitted that applicant was arrested on 30/05/2015 and since then he is in custody. Learned counsel submits that victim had accompanied applicant on her own and it is a simple case of love affair converted to false incident of rape at the instance of parents of girl. According to learned

counsel investigation is over, charge sheet has been filed and no purpose would be served in keeping the applicant behind the bars. Learned counsel therefore urges to release the applicant on bail.

7. Per contra learned A.P.P. strongly resisted the application. It is submitted that applicant enticed the victim and committed sexual act with her. It is submitted that victim was minor. Applicant has given threats to complainant and witnesses and there is every possibility of his tampering with the evidence. Learned A.P.P. thus prays to reject the application.

8. On perusal of case papers it can be seen that date of birth of victim is 13/03/1997. Incident occurred on 16/08/2014. At the time of incident victim was 17 plus. She stayed with applicant for about a week and then both applicant and victim surrendered before police. In F.I.R. father has said that there was love affair between prosecutrix and applicant.

9. In the above background this Court finds it fit case to enlarge the applicant on bail. Hence, the following order.

ORDER

(i) Criminal Application No. 5267 of 2015 is allowed.

- (ii) Applicant Ganesh s/o Jailal Chavan shall be released on bail in Crime No. I-133/2014 registered at Begampura police station, district Aurangabad for the offences punishable u/ss 376,363 read with section 34 of the Indian Penal Code and u/ss 3 and 7 of the Protection of Children from Sexual Offences Act on P.R. and S.B. of ₹ 15,000/- [Rupees Fifteen Thousand] each.
- (iii) Applicant shall not tamper with the prosecution evidence and shall make himself available as and when required.
- (iv) As applicant and complainant are residents of same vicinity, applicant shall keep himself away from village Wadachi Wadi till the conclusion of trial.

[INDIRA K. JAIN]
JUDGE