

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.1869 OF 2015

Sou. Laxmi Bhausahab Gavade ...Applicant

Versus

The State of Maharashtra ...Respondent

.....

Mr. Vaibhav Gaikwad for the Applicant.

Smt. Veera Shinde, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 16th NOVEMBER, 2015.

P. C. :

This is an application for bail filed by the aforesaid Applicant, who is one of the accused in Spl. C.S. No.41 of 2015 on the file of the learned Additional Sessions Judge, Satara.

2. Heard the learned counsel for the Applicant and the learned APP for the Respondent -State.

3. Perused the records and considered the submissions advanced by the learned counsel for respective parties. The records prima facie reveal that one Sharad @ Mahavir Laxman Aadake and the present Applicant were arrested in Crime No.62 of 2015 registered

with Phaltan Gramin police station for the offences punishable under sections 376(2) (1) (n) of the IPC, section 6 of the Protection of Children from Sexual Offences Act and section 3 (i) (ii) of the Schedule Caste and Schedule Tribe (Prevention of Atrocity Act). The records prima facie reveal that the co-accused Sharad @ Mahavir Laxman Aadake had sexual intercourse with a minor girl. It is stated that the said minor girl was pregnant and subsequently delivered a child.

4. It is pertinent to note that in the statement under section 161 of the Criminal Procedure Code, which was recorded immediately after the registration of the crime, the victim has not made any allegations against the present Applicant. The allegations of abetment have been made only in the subsequent statement recorded under section 164 of the Criminal Procedure Code, after about more than 15 days after the registration of the offence. Even otherwise the Applicant being a woman cannot be prosecuted for the offence under section 376 (2) of the IPC. Reliance is placed on the judgment in **Priya Patel Vs State of M.P. & Anr., (2006) 6 SCC 263.**

5. Considering the above facts and also considering the nature

of the allegations levelled against the Applicant herein and also considering that the investigation is already completed and the charge-sheet is already filed, in my considered view the Applicant is entitled for bail.

6. The application is allowed. The Applicant is ordered to be released on bail on furnishing bond of Rs.15,000/- with one surety in the like amount to the satisfaction of the Additional Sessions Judge, Satara. The Applicant shall not interfere with the victim in any manner.

(ANUJA PRABHUDESSAI, J.)