

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 70 OF 2015

Umesh Madhukar Kadam

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Ms. Suchita Patankar i/b P. B. Naiknaware for Applicant

Ms. P. P. Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : FEBRUARY 16, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 14/10/2013 in crime no. 152 of 2013 registered at Vadgaon Maval Police Station for offence punishable under section 376 (2), 323, 506 of Indian Penal Code and provisions of section 3 & 4 of Protection of Children from Sexual Offences Act 2012.

2) It is the case of prosecution that on 17/09/2013, prosecutrix lodged a report at the police station alleging therein that present applicant is her first cousin. Applicant happens to be a teacher by profession and his teaching in Sankalp English School Pavnanagar, Taluka Maval. Prosecutrix was studying

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in 10th standard. He used to visit her house intermittently to inquire about her studies. He had outraged her modesty on several occasions. She had admitted to told his mother about the same, however, prosecutrix was not believed. She has stated that applicant herein had ravished her on 14/09/2013. She was not feeling well and hence, has gone for checkup to the hospital. At that time, she was carrying pregnancy of four months. According to her, applicant is the biological father of the said foetus. Applicant was arrested in October 32013. Prosecution had conducted DNA test. Report is received. DNA report says as follows:

“(1) For all the 15 different genetic systems analyzed with the PCR, Umesh Madhukar Kadam in F.S.L.M.L. CASE No. DNA 1262/13 **did not match** the obligate paternal alleles present in the DNA in Foetus of Pratibha Tatyaram Kadam at 7 loci”.

“(2) Pratibha Tatyaram Kadam **matched** the obligate maternal alleles present in the DNA”.

3) Conclusion was that present applicant is excluded to be biological father of DNA in the said foetus. On the basis of the said report, it cannot be said that present applicant who happens to be paternal cousin of the applicant

has been the perpetrator of the said offence. In view of this, applicant deserves grant of bail. However, it is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.

Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)