

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 184 OF 2015

Shri Devendra namdevo Salve ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Sushant S. Prabhune, , for the Applicant.

Mr. Arfan Sait,, APP for State.

CORAM : SMT.SADHANA S. JADHAV,J

DATE : FEBRUARY 23, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 2/2/2013 in Crime No. 34 of 2013 registered at Indapur Police Station for offence punishable under Section 376 (2)(f) and (g), 342, 506 read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that Dhanashri Salve lodged a

report at the police station on 1st February, 2013 alleging therein that she is mother of 12 years old daughter. On 24/1/2013 she had seen that her daughter is limping. Upon enquiry her daughter had disclosed to her that on the previous day at about 4 p.m. after the school hours Anganwadi Sevika namely Sangitabai wife of Waman Salve has asked the girl to come to her house. Thereafter, the girl had accompanied Sangitabai to her house. That Sangitabai had locked the door from outside. After some time, the present applicant had come into the said room, had denuded the victim of her clothes and had ravished her. She had further disclosed that on the previous two occasions also the Anganwadi Sevika had taken her to her house and she was exposed to sexual assault. The victim was taken for medical examination. She has reported the incident to the doctor. The investigation is completed and charge-sheet is filed.

4 The learned Counsel for the applicant submits that in fact, on 1st February, 2013 the victim had accompanied the complainant but her statement was not recorded on that day. Learned Counsel submits that there is non-compliance of the amended provisions of the Criminal Law

amended Act, 2013. According to the learned Counsel, it is on this ground, the applicant would be entitled to grant of bail. It is also submitted that the applicant is a senior citizen. The cause title shows that the applicant is about 58 years old.

5 The learned Counsel further submits that there is delay in lodging FIR. The explanation offered by the complainant that they had to take instructions/directions from sarpanch of the village should not inspire confidence of the Court and that it cannot be held that it is a plausible explanation. However, taking into consideration the fact that the victim girl is a victim of low I.Q. and according to the complainant the victim suffers from Psychological deformities, the applicant does not deserve grant of bail. The victim is a minor. There is no reason to disbelieve the victim. It is a ghastly offence. The applicant does not deserve bail on technical grounds.

6. Hence, the application being sans merit stands rejected.

7 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)