

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.364 OF 2015

Shri Manohar S. Mahanto

.. Applicant.
(Orig. Accused)

V/s.

The State of Maharashtra

.. Respondent.

Mr. Sanjay A. Ghaisas, for the Applicant.

Ms. A. T. Jhaveri, APP for the Respondent-State.

CORAM: REVATI MOHITE DERE,J

DATE : 1st APRIL, 2015.

PC:-

Heard the learned Counsel for the Applicant and the learned APP for the Respondent-State.

2 By this application, the Applicant seeks his enlargement on bail in connection with CR No.I-94/2014, registered with the Ambernath Police Station, District Thane, for the alleged offences punishable under Sections 375, 377 and 504 of the IPC and under Sections 3, 4, 7 and 8 of the Protection of Children from Sexual Offences Act, 2012.

3 The Complainant is the mother of the Prosecutrix. The Prosecutrix was aged about 7 years and the Applicant 40 years of age, at the relevant time. It is alleged by the Complainant that, on 20th March, 2014, when she returned home at about 10.00 p.m. her daughter i.e. the Prosecutrix was sitting in a corner of the house, in a frightened condition.

On being questioned, the Prosecutrix is alleged to have disclosed that when she was playing outside the house, the present Applicant residing in the same locality, came and offered her Rs.10/- and took her home. Thereafter, the Applicant removed her underclothes and gaged her mouth with a cloth. The Applicant then rubbed his private part on the victim's vagina, pursuant to which semen was discharged. He, thereafter, put on her clothes and threatened her not to disclose the incident to any person or else he would kidnap her elder sister. The Complainant on learning about the said incident, immediately informed her neighbors and on inspection of the victim's private parts, found that there was swelling, and it was reddish in colour.

4 The learned Counsel for the Applicant contended that the medical report does not support the prosecution case.

5 Perused the charge sheet and in particular, the statement of the Complainant, the statement of the Prosecutrix and the medical certificate of the Prosecutrix. The statement of the prosecutrix recorded by the SEO, discloses the incident as narrated by them to her mother i.e. the Complainant. There is a witness, who has disclosed that she had seen the Prosecutrix, going towards the house of the Applicant.

6 Considering the material on record, this is not a fit case to enlarge the Applicant on bail. However, the trial of the Applicant is expedited.

7 The learned Special Judge is requested to expedite the case and conclude the same, preferably within nine months from the date of receipt of this order.

8 The learned Judge to conduct the case on its own merits, uninfluenced by the observations made in the present order, which are prima facie in nature.

9 Accordingly, the bail application is rejected and is disposed of on the aforesaid terms.

(REVATI MOHITE DERE,J.)