

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.460 OF 2015

Mr.Aslam Hyder Khan ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.Prakash naik i/b Ganesh Bhujbal for the Applicant
Ms.R.V,. Newton, APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **MARCH 18, 2015**

P.C.:

1. The applicant is facing charges under section 363, 376, 506 of the Indian Penal Code and under section 5(k) and 6 of the the Protection of Children from Sexual Offences Act, 2012. The applicant/accused is a resident in the locality of the victim girl. The victim was 14 years and 5 months old. The applicant/accused has lost his wife and 2 sons. He is 30 years old. It is a case of the prosecution that he seduced the victim and he took away her on 17.11.2014 to Alandi. He kept her in a lodge and had sexual intercourse with her. Hence, the FIR is given by the father of the prosecutrix. Pursuant to the FIR, the applicant/accused is arrested on 19.11.2014. Hence, this application.

2. Mr.Naik, the learned Counsel for the applicant/accused, has submitted that though the victim is a minor, no force was administered at the time of sexual intercourse and the girl returned on the next day. The learned also submitted that the medical certificate in respect of the sexual intercourse is not clear. In view of this, he is to be granted bail and the applicant/accused is behind the bars since 19.11.2014. Hence, he is to be granted. Bail.

3. The learned Prosecutor has opposed the application. She submitted that the applicant/accused is a minor girl aged 14 years and 5 months when the incident took place.

4. Perused the statement of the victim girl so also the statement of the father. It shows that earlier, the father of the prosecutrix had warned the applicant/accused not to be after his daughter and stay away from her. However, the applicant/accused after a few days, seduced and eloped with her and had sexual intercourse. The case falls under section 376(2) of the Indian Penal Code. Hence, it is not a fit case for bail. Accordingly, the application is rejected. The Sessions Court to take note that the medical report is to be asked for.

(MRS.MRIDULA BHATKAR, J.)