

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 559 OF 2015

Paul Joseph Shirole

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr. Harshad Nimbalkar i/b. Mr. Satyam H. Nimbalkar, Advocate for the applicant.

Mrs. R.V. Newton, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JULY 8, 2015**

P.C.:

This Application is moved for bail. The applicant/accused is facing charges under sections 376, 109, 506 of the Indian Penal Code and under section 4 of Protection of Children from Sexual Offences Act. The applicant/accused was arrested on 19th May, 2014 and since then he is in custody. Hence, this Bail Application.

2. The learned counsel for the applicant/accused has submitted that there is inconsistency in the statement of the prosecutrix recorded under sections 154 and 164. He further submitted that the prosecutrix has given exaggerated version and it is unbelievable. The learned counsel submitted that the grievance of the prosecutrix was against the lady, who was her employer and not against the applicant/accused. He further

submitted that the applicant/accused prays for bail for another major ground that he is 56 years old and suffering from heart ailment. He needs to undergo Angiography or Angioplasty and may be bypass. He submitted that such treatment is not available In Nashik Jail where he is detained. The learned counsel submitted that if at all timely medical aid is not given to the applicant/accused, it would be fatal and this ground is to be considered for bail.

3. Learned APP opposed the Application on merit. She submitted that it is a case under section 376. There is sufficient evidence against the applicant/accused. Learned APP submitted a medical report given by the Chief Medical Officer, Nashik Road Central Prison dated 29th June, 2015.

4. Perused the FIR and the documents on merits. Considering the allegations made and the details given by the prosecutrix and after going through the medical certificate, it is not a case to grant bail on merit. However, perused the medical report submitted by the Chief Medical officer of Nashik Road Central Prison and he has mentioned that the applicant/accused was sent to Civil Hospital Nashik for treatment and the report given is as follows:

“His blood pressure is unstable in nature. He is not responding to regular Antihypertensive drugs.

He had been referred to Civil Hospital Nashik for investigation

and medical arrangement. Expert cardiologist of Civil Hospital Nashik suggested Angiography or Angioplasty. Since this facility is not available in Government Institution (Civil Hospital & Regional Referral Hospital Shalimar Nashik.

Due to his unstable High blood pressure with Diabetes Mellitus he may suffer low ocular vision, Hypertension with Diabetes Mellitus may cause severe injuries to vital organs.

He may require Angiography and treatment for unstable hypertension as early as possible.”

5. In view of this, it appears that the applicant/accused really needs immediate medical help. Therefore, only on medical ground, the applicant/accused is given temporary bail till 30th November, 2015 to enable him to seek proper medical treatment, on the following terms and conditions:

ORDER

- (i) The Application is allowed.
- (ii) The applicant/accused shall be enlarged on bail till 30th November, 2015 upon furnishing P.R. Bond in a sum of Rs.15,000/- with one or two sureties in the like amount.
- (iii) The applicant shall not tamper with the evidence.
- (iv) The applicant shall not indulge into any criminal activity, while on bail.
- (v) The applicant shall not try to contact the prosecutrix in any manner.
- (vi) The applicant is directed to inform about his whereabouts on 1st and 15th of every month and also the nature of treatment to the Investigating

officer at Gangapur Police Station

(vii) The applicant shall make himself available and attend all the Court dates.

(vii) The applicant/accused shall not abscond and furnish his address to the police along with address proof.

(viii) The applicant shall surrender on 30th November, 2015 at 4 p.m. and report about it to the Investigating officer, Gangapur. If the applicant does not surrender on 30th November, 2015, the Investigating officer should report it to the Sessions Court, Nashik.

(ix) Violation of any of the conditions imposed shall amount to cancellation of bail forthwith.

(x) The applicant shall not leave India without the prior permission of the Court.

6. The copy of this order is to be sent to the Sessions Court, Nashik

7. Parties to act upon an authenticated copy of this order.

8. The Application stands disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)