

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.736 OF 2015

Kailas Sakharam Bombale	... Applicant
vs.	
State of Maharashtra	... Respondent

Mr. P.G. Sarda, for the Applicant.
Mr. J.H. Ramugade, APP for Respondent – State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **JUNE 15, 2015**

P.C.:

. Applicant/accused is behind the bars in C.R. No. 168 of 2014 who is facing prosecution under Sections 376, 342, 341, 336 and 506 of the Indian Penal Code and Sections 4, 6, 8, 10 and 11 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. The applicant/accused as per the case of the prosecution has committed rape on a minor girl who is 14 years old on 27th August, 2014 at 6.00 p.m. He is taken in the custody on 28th August, 2014. Hence, bail application.

3. The learned counsel for the applicant/accused submitted that after perusal of the medical certificate which was issued on a clinical examination of the girl it shows that there were no injury seen on her body. It is said in the medical certificate that there is possibility of a recent sexual penetrative vaginal intercourse. He submitted that thus there is no sexual assault at the hands of the accused. It was not a rape punishable under Section 376(i) of the Indian Penal Code. He submitted that since last 10 months applicant/accused is in prison. He prayed for bail.

4. The learned prosecutor opposed the bail application. He relied on the statements of witnesses and the statement of the prosecutrix. Perused the first information report and the statements of the witnesses and the medical certificate of the prosecutrix. It shows that there is possibility of recent penetrative vaginal sexual intercourse. The girl at the time of the incident was 14 years. In her statement, she has given all the details. It is to be noted that the first information report was registered on the same day.

5. In view of the above, I reject bail to the applicant. However, the applicant/accused is at liberty to move application after eight months.

(MRS.MRIDULA BHATKAR, J.)