

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.762 OF 2015

Shailendra Shridhar Dhaybar .Applicant

v/s.

The State of Maharashtra .Respondent

Ms K.H.Rajani, Advocate, for the Applicant
Mrs.S.S.Kaushik, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 25.08.2015

P.C.

. Heard 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
C.R.No.I-145 of 2014 registered with the
Badlapur Police Station, District - Thane, for
the alleged offences punishable under Sections
323, 342, 376, 506 r/w.34 of the Indian Penal
Code, 1870.

3. The complainant is the prosecutrix who has lodged the complaint as against the applicant who is the maternal uncle. After the unfortunate demise of the prosecutrix's parents, the prosecutrix along with her two brothers, aged 21 and 16 years were constrained to stay with the present applicant and his wife(maternal aunt). It is alleged by the prosecutrix that some time from April, 2014 to October, 2014 the applicant would question her about her affair with one Kailash and would assault her. She has alleged that initially the applicant outraged her modesty and later the applicant on the pretext of questioning her about her affair with Kailash, would take her in a room and would forcibly commit sexual intercourse with her.

4. Learned counsel for the applicant states that the mobile clips that were sent by the prosecutrix to Kailash have not been seized.

She submits that it is a false complaint as the applicant was an impediment in the love affair of the prosecutrix and Kailash. She submits that the brothers of the prosecutrix were old enough and were present at the house during the time when the applicant would take the prosecutrix in a room.

5. Learned APP opposed the bail application. She submits that the statements of the prosecutrix as well as that of her brothers have been recorded under Section 164 of the Code of Criminal Procedure. She submits that the applicant had taken advantage of the prosecutrix as she was an orphan and had committed forcible sexual intercourse with her. She submits that the statement of the prosecutrix is corroborated by the statements of her brothers, who too have disclosed the said facts that the applicant took the prosecutrix to the room on some pretext. She

further submitted that the mobile data has been sent to the Forensic Laboratory and report is awaited. Considering the material on record as against the applicant, no ground is made out for grant of bail.

6. Accordingly, the Bail Application is rejected.

7. It is made clear, that the observations are prima facie for the purpose of deciding the application and the learned Judge shall conduct the case on its own merits, uninfluenced by the observations made herein.

(REVATI MOHITE DERE, J.)