

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 937 OF 2015

Aabid Pirasaheb Inamdar

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Sudhir C. Halli Advocate for Applicant

Mr. Y. M. Nakhwa APP for the State

Mr. Suryawanshi P.S.I. Powai Police Station

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 25th JUNE, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 06/02/2015 in crime no. 38 of 2015 registered at Pawai Police Station for offence punishable under sections 376, 3767 (2) of Indian Penal Code and section 4 & 8 of Protection of Children from Sexual Offences Act. Investigation is completed and charge-sheet is filed.

2) Upon perusal of F.I.R., it appears that prosecutrix was well acquainted with family of the accused. That she used to not only visit the house of the

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applicant frequently, but whenever they were on vacations, complainant/prosecutrix used to accompany them. On 03/01/2015, prosecutrix accompanied the family of the accused. They had been to Nashik Road. They had dinner together at about 01.30 a.m. in Shalimar Hotel. Since, it was too late to travel, applicant, his family and prosecutrix had halted at a hotel. They had booked one room. It is alleged that wife of applicant and her children were sleeping on the bed in the hotel room, whereas prosecutrix was sleeping on a mattress on the ground and watch television. That in the middle of the night, applicant is alleged to have sexually abused the complainant and had ravished her. According to the complainant, she did not inform about it to the wife of applicant. At about 6.00 a.m., in the morning, they had left the said hotel. Applicant had noticed that there were several missed calls by the father of prosecutrix. That he had informed the prosecutrix about it. Applicant had informed the father of prosecutrix that he need not worry since prosecutrix was with him and his family. Then they came home at about 7.30 a.m. She had informed her mother about it immediately. However, F.I.R. is lodged on 05/02/2015.

3) It is contended that father of prosecutrix was concerned about the

dignity of his daughter and therefore, there was a delay in lodging F.I.R. In any case, for offence under section 376 of Indian Penal Code, the delay in reporting the incident may not be fatal to prosecution.

4) Learned counsel for the applicant submits that in fact, family of complainant was well acquainted with the family of applicant. That in fact, father of complainant had even been to police station in the intervening night of 03/01/2015 & 04/01/2015 to lodge a missing report, however, upon learning that his daughter is safe in the custody of the applicant, he had informed the police about her safety.

5) Learned counsel submits that perusal of the statement of the victim may not inspire the confidence of the Court as there are inherent improbabilities in her statement. She was medically examined, practically after more than one month of the alleged incident and therefore, there is no cogent evidence on record to corroborate the recitals of the F.I.R. The complainant and the applicant's family are residing as neighbours and there were cordial relations between them at least till the filing of F.I.R.

6) Considering the papers of investigation, totality of circumstances and the submissions advanced across the bar, this Court is inclined to grant bail.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- (iii) Applicant shall report to the concerned police station on first Sunday of each month, till the conclusion of trial.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)