

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 972 OF 2015

Deepak Rajendra Jadhav

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr. Sanjiv Sawant i/b. Mr. Sachin D. Kadam, Advocate for the applicant.

Mr. Arfan Sait, APP for the respondent/State.

I.O. Mr. Ravindra Wadekar, ACP, Nashik City, Special Branch present.

CORAM: **MRS.MRIDULA BHATKAR, J.**DATE : **JULY 24, 2015****P.C.:**

This Application is moved for bail as the applicant/accused is facing prosecution under sections 4 and 8 of Protection of Children from Sexual offences Act, 2012 and under section 3 (1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act in C.R. No. 3029 of 2015 registered with Panchavati Police Station, Nashik. The prosecutrix gave information to the police on 28th January, 2015.

2. It is the case of the prosecution that prosecutrix at the time of lodging FIR was 17 years old. She belongs to Scheduled Caste. She was in love with applicant/accused. On 26th October, 2014 in the house of their friend Ganesh, both of them exchanged garlands and declared that they got married to each other. Thereafter, they started residing together till 3rd November, 2014 in the house of Ganesh. From 3rd November, 2014 both of them started residing in Room no. 4 at Sindhi Chawl. The

applicant/accused was not working and he used to drink liquor, therefore, one day applicant told prosecutrix to get out of the house. So, on 1st January, 2015 she consumed phenyl and was admitted in the hospital. The father, mother and maternal uncle of the applicant/accused promised her that they would take her to their house. However, when she went to their house after treatment, co-accused told her in their house that she belongs to scheduled caste and therefore, she should get out of the house. Thereafter she started residing with the applicant/accused, however, he again consumed liquor and started beating her, hence she lodged FIR. The applicant was taken in custody on 28th January, 2015. Hence this Bail Application.

3. The learned counsel for the applicant/accused has submitted that the parents and maternal uncle of the applicant/accused were also arrested and now they are released. He submitted that complainant on 26th October, 2014 was more than 16 years old. They were in love with each other. They were staying together like husband and wife. It is not a sexual abuse under Protection of Children from Sexual Offence, as alleged. There are no criminal antecedents against the applicant/accused and therefore, he be released on bail.

4. Learned APP opposed the Application. He submitted that the complainant is present in the Court. She was minor when the

applicant/accused sexually assaulted her. He further submitted that the applicant/accused and his family members humiliated her because she belongs to scheduled caste. He further relied on the application made by the complainant to this Court taking objection to the Bail Application for the applicant/accused. Learned APP submitted that as she has apprehension of threats to her life if the applicant/accused is released on bail. Therefore, learned APP submitted that applicant/accused is not to be released on bail.

5. Perused the FIR, application of the complainant so also other documents. It appears that alleged marriage has taken place on 26th October, 2014 and as per the case of the prosecution, at that time, the complainant was 16 years and 8 months old. Though she was minor she was at the age of understanding the consequence of the relationship. It appears from the papers that they both were in love with each other and applicant/accused did not leave her but he was staying with her. It shows that they were having live-in relationship though legally they were not married. Though *prima facie* there is evidence to show that he assaulted her, as the applicant/accused is inside since last 6 months, I am inclined to grant bail to the applicant/accused on the following terms and conditions:

ORDER

- i) The applicant shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/- with one or two sureties in the like

amount;

- ii) The applicant shall not tamper with the evidence;
- iii) The applicant shall not contact or pressurize the complainant in any manner;
- iv) The applicant shall not indulge into any criminal activity while on bail;
- v) The applicant shall make himself available and attend all Court dates;
- vi) The applicant shall not abscond and furnish his address to the police along with address proof.
- (vi) Violation of any of the conditions imposed shall amount to cancellation of bail forthwith.
- (vii) The applicant shall not leave India without the prior permission of the Court.

6. The Application stands disposed of on above terms.

(MRS.MRIDULA BHATKAR, J.)