

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1213 OF 2015

Shammu alias Khalid Shaikh Mohammad Sabir ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr. Aniket U. Nikam, Advocate for the applicant.

Mr. Arfan Sait, APP for the State.

I.O. ms. A.G. Katke, P.S.I., Igatpuri Police Station present.

CORAM: **MRS. MRIDULA BHATKAR, J.**

DATE : **JULY 21, 2015**

P.C.:

This Application is moved for bail, as the applicant/accused is facing charges under section 305, 323, 354(D), 504 of the Indian Penal Code, sections 8 and 12 of the Protection of Children from Sexual Offences Act in C.R. No. 12 of 2015 registered with Igatpuri Police Station, Nashik. The offence is registered on 4th February, 2015 at the instance of Niyaz Ahmed, father of deceased girl.

2. It is the case of the prosecution that the applicant/accused was interested in the deceased girl and on 31st January, 2015 at around 3 p.m., he contacted deceased Rukhsar and her friend Araj in the college and expressed his love towards Rukhsar. Rukhsar refused and told him that she was not interested in him. The applicant/accused thereafter assaulted and abused her. As Rukhsar was crying, her brother Nadeem arrived there. On seeing Nadeem, applicant/accused ran away. Rukhsar told her

brother that applicant/accused abused and assaulted her and that she will tell him in detail about the incident after her father returns. On the same day immediately at 4.15 p.m., Rukhsar hanged herself. On 2nd February, 2015 Nadeem told this incident to his father Niyaz Ahmed and thereafter Niyaz gave information to the police. Pursuant to this, the offence was registered and the applicant/accused was arrested on 10th February, 2015. Hence, this Bail Application.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused is innocent. He has not committed any offence much less the offence under sections 305 and 354 of the Indian Penal Code. He submitted that the applicant/accused is 23 years old and the deceased was 17 years and 3 months at the time of incident.

4. Learned APP opposed the Application. He submitted that the offence is registered under section 305 where the punishment extended is upto death or imprisonment for life and, therefore, the applicant/accused is not to be released on bail.

5. Perused the FIR, statements of witnesses especially statement of Araju and Nadeem. It *prima facie* appears from the facts of the case and evidence available before the Court that though there is evidence under section 354D and 323 of the Indian Penal Code, taking into account the

ingredients under section 107 which constitute an offence under section 305 are not seen. Hence, 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 or pressurize the witnesses;
- iii) The applicant shall not contact the complainant or his family members;
- (iv) The applicant shall make himself available and attend all Court dates;
- (v) 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.)