

nsc.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1976 OF 2015**

Saurabh Indrajeet Shinde

...Applicant

Versus

State of Maharashtra

...Respondent

Mr.Kuldeep U. Nikam, for the Applicant

Mr.S.S.Pednekar, A.P.P for the Respondent-State

***CORAM : REVATI MOHITE DERE, J.
DATE : 28th OCTOBER, 2015***

P.C. :

1. Leave to amend to delete the name of the prosecutrix is granted. Amendment to be carried out forthwith.
2. Heard learned Counsel for the applicant and the learned A.P.P.
3. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 82 of 2015, registered with the Atpadi Police Station, Sangli for the alleged offences punishable under Sections 376(2)

(I), 450 of the Indian Penal Code and under Sections 4 and 6 of Protection of Children from Sexual Offences Act.

4. At the relevant time, the prosecutrix was 15 years of age and the applicant was 19 years of age. It is alleged that the incident took place on 23rd June, 2015, when the complainant was having fever and had not gone to school and was taking rest in her house. It is alleged that at around 2.00 p.m., when the complainant was sleeping in her house as she was running with high fever, the applicant who is in relation with her came to her house and inquired whether her mother was at home. It is alleged that when she replied in negative, the applicant asked her why she was sleeping and when she disclosed him that she had fever, the applicant touched her neck and thereafter started touching her inappropriately. It is alleged that the applicant had physical relations with her and after the incident ran away from the spot. Thereafter, the prosecutrix is stated to have followed the applicant, however, the applicant had fled from the spot. The prosecutrix thereafter informed the said incident to her mother, pursuant to which a complaint was lodged on 27th June, 2015 and the statement of the prosecutrix was recorded on 2nd July, 2015.

5. Learned Counsel for the Applicants contended that the prosecutrix has lodged a false and baseless complaint, as against the applicant and that applicant has been falsely implicated in the present case because of hostile relations between the two families. He submitted that a perusal of the medical certificate, which is on page 54 of the application shows that there was no injury marks over vulval area. The hymen was intact and there was no tear of the hymen. The PS examination shows that the uterus was normal and that there was no tear. He submitted that accordingly a finding was given as under :-

h) On examination, findings are within normal limit neither rupture nor confirmed forceful sexual intercourse. However, final opinion regarding penetrating sexual intercourse is reserved till establishing of FSL Report.”

6. Learned Counsel for the Applicant submitted that the applicant is 19 years of age and is a student who is studying in College and considering the medical evidence, the applicant be enlarged on bail.

7. Learned APP opposed the bail application. He submitted that

even though the medical examination shows as aforesaid, a perusal of the statement of the prosecutrix clearly shows that the applicant had committed forcible sexual intercourse with the complainant.

8. Perused the papers. The investigation is complete and charge-sheet is filed.

9. Considering the material on record, the applicant is enlarged on bail on the following terms and conditions :

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

(ii) The Applicant shall attend the concerned Police Station in whose jurisdiction he intends to reside after his enlargement on bail, on the first Saturday of every month between 10:00 a.m. to 11:00 a.m, till the conclusion of the trial ;

(iii) The applicant shall not tamper or attempt to influence or

contact the prosecutrix, complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant shall not enter the jurisdiction of Atpadi Police Station, Sangli, where the prosecutrix resides, till the conclusion of the trial ;

(vi) The applicant to cooperate in the conduct of the trial;

10. The Application is allowed in the aforesaid terms and is accordingly disposed of.

11. It is made clear that the observations made herein are *prima*

facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

12. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.