

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

CRIMINAL BAIL APPLICATION NO. 1980 OF 2015

Prakash Anna Shelar .. Applicant

v/s.

The State of Maharashtra ..Respondent

Mr. Satyavrat Joshi for the applicant

Mr. J.H. Ramugade, APP for respondent State

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 17th NOVEMBER, 2015.**

P.C.

1. This is an application for bail filed by the applicant, who is an accused in Sessions Case being Special Case (POCSO) No.173 of 2015, pending before the Additional Sessions Court, Pune for the offence under Sections 376, 363 of the IPC and Sections 4 and 6 of the Protection of Children from Sexual Offences Act.

2. The learned Counsel for the applicant submits that the statement of the victim is inconsistent with the history given to the doctor. He has further submitted that the victim was on the verge

of attaining majority and that the incident appears to be consensual.

3. The learned APP for the State submitted that the ossification test reveals that the victim was between 14 to 16 years of age and hence, the child within the meaning of Section 2(d) of the Protection of Children from Sexual Offences Act. He has further submitted that the statement of the victim as well as the medical report *prima facie* reveals that the victim was subjected to sexual abuse, which constitute offence under Section 376 of the IPC as well as Section 4 and 6 of the Protection of Children from Sexual Offences Act.

4. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

5. The statement of the victim *prima facie* reveals that the applicant had sexually abused her. The allegations levelled

against the applicant *prima facie* constitute offence under Section 376 of the IPC as well as Section 4 and 6 of the Protection of Children from Sexual Offences Act. The medical evidence also corroborate the statement of the victim. The ossification test reveals that the victim was minor and hence, consent of the minor is not material. The victim and the applicant are residing in the same locality. The evidence of the victim is not yet recorded. Under the circumstances, the possibility of the applicant interfering with the victim and or tempering with the evidence cannot be ruled out.

6. Considering the aforesaid circumstances and the nature of the offence, in my considered view, the applicant is not entitled for the bail. Hence, the application for bail is rejected.

(ANUJA PRABHUDESSAI, J.)