

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

BAIL APPLICATION NO.2035 OF 2015

Swapnil Sambaji Ahire

...Applicant

Versus

The State of Maharashtra

...Respondents

...

Mr. Chetan S. Damre for the Applicant.

Mr. Rajesh More, APP for the Respondent- State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 2nd DECEMBER, 2015.

P. C. :

This is an application for bail filed by the aforesaid Applicant, who is an accused in Special Child Act Case No.109 of 2015 registered at Loni Kalbhor Police Station, Pune, for the offences punishable under sections 363, 376 of the Indian Penal Code and under sections 8 and 6 of the Protection of Children From Sexual Offences Act 2012.

2. The learned counsel for the Applicant has submitted that as per the ossification test the age of the victim girl is between 16 to 17 years and that the victim had herself left the house and gone to the house of the Applicant, who is 21 years of age. He has submitted that

considering the nature of the allegations levelled against the Applicant, he is entitled for bail.

3. The learned APP has submitted that the charge-sheet has been filed and the trial has not yet commenced. The Applicant is facing trial in a serious case involving the child. Hence, he should not be released on bail.

4. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent-State.

5. The statement of the victim prima facie reveals that the Applicant was known to her. Her statement further indicates that on 18.1.2015 she had called the Applicant on cellphone and thereafter she had left her house and proceeded to Manmad where she met the Applicant. Thereafter the Applicant took her to his house at Ankai. The statement of the victim further reveals that during her stay at the house of the Applicant they had entered into physical relationship. In the meantime the father of the victim had lodged the FIR pursuant to which crime was registered and the Applicant and the victim were traced on 24.1.2015 while they had come to Manmad Railway station.

6. The record further reveals that the victim was sent for medical examination and as per the ossification test the victim is above 16 years and below 18 years of age. Considering this aspect and also considering the facts that the victim had herself accompanied the Applicant and the age of the Applicant, in my considered view no fruitful purpose would be served by detaining the Applicant any further.

7. Under the circumstances, the application is allowed on the following terms and conditions:-

(i) The Applicant is ordered to be released on bail on furnishing PR. bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or two sureties in the like amount to the satisfaction of the learned Special Sessions Judge, Pune.

(ii) The Applicant shall not leave the Nashik District without prior permission of the Trial Court except for the purpose of attending the hearing in the said case.

- (iii) The Applicant shall furnish his permanent as well as temporary address, if any, to the Investigating Officer. The Investigating Officer shall verify the same before the Applicant is released on bail.
- (iv) The Applicant shall attend each and every date of hearing before the Trial Court.

(ANUJA PRABHUDESSAI, J.)