

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1584 OF 2015**

Rupesh Parshuram Phulare	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms. Priyanka Dubey i/b Mr. P. R. Yadav for the Applicant

Ms. S. D. Shinde, A.P.P for the Respondent-State

ASI Mr. Salavi from Roha Police Station is present

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 21ST 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 for the State.

3. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 152 of 2015 registered with the Roha Police Station, Rigad, for the alleged offences punishable under Sections 376,

376(I) r/w 34 of the Indian Penal Code and under Sections 3A, 4 and 5(g) of the Protection of Children from Sexual Offences Act.

4. The prosecutrix has alleged the aforesaid offences as against four persons, including the applicant. The prosecutrix, at the relevant time, was 16 years of age. She has alleged in her complaint dated 5th September, 2015 that the present applicant along with other co-accused separately committed forcible sexual intercourse with her on several occasions. As far as the present applicant is concerned, question Nos. 7, 8 and 12 are relevant. According to the prosecutrix, the present applicant took her on a motorcycle and committed forcible intercourse and paid her a sum of Rs. 100/-. Thereafter, the applicant again took her on four other occasions and committed forcible intercourse with her. Pursuant to the forcible intercourse committed by the applicant and three other co-accused, which were independent incidents, the prosecutrix became pregnant. Infact, the prosecutrix was eight months pregnant when the complaint was lodged on 5th September, 2015. Learned A.P.P states that the prosecutrix has delivered a child.

5. Learned Counsel for the applicant states that the applicant has been falsely implicated in the said case. She relied on a letter dated 18th February, 2014 sent to the Police Inspector, Roha, Raigad, wherein, the present applicant and others and other family members of the applicant had moved a representation against the villagers of Ghosale. She states that as the villagers did not want the applicant to do his business in village Ghosale, they instigated the prosecutrix to name the applicant and falsely implicate him.

6. Learned A.P.P vehemently opposed the bail application. She states that all the three other co-accused have been arrested and are at present in custody. She states that the prosecutrix was a minor girl aged 16 years and the applicant was a married man aged 28 years, at the relevant time.

7. Considering the serious allegations made against the applicant and the fact that the applicant's name has been specifically spelt out in the FIR lodged by the prosecutrix, this is not a fit case to exercise the

discretion under Section 438 of the Criminal Procedure Code. The Application stands rejected.

8. If an application for regular bail is filed, the same shall be considered on its own merits uninfluenced by the observations made herein.

REVATI MOHITE DERE, J.