

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

CRIMINAL BAIL APPLICATION NO.2184 OF 2015

Milind Vasant Shete.

...Applicant.

vs.

The State of Maharashtra.

...Respondent.

Mrs.Smit Kadu i/by R.G.Kadu for the Applicant.

Ms.Rujuta Ambekar, APP. for the State.

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CORAM : A.S. GADKARI, J.**16th November, 2015.****P.C. :**

The applicant has preferred this application seeking bail in CR No.345/2015 registered with Samata Nagar Police Station under Section 377 and 420 of the I.P.C. read with Section 4, 8 and 12 of the Protection of Children from Sexual Offences Act 2012,

2) Heard the learned counsel for the applicant and the learned APP.

3) The learned counsel for the applicant submitted that there is no evidence on record which could connect the applicant with the alleged crime. She further submitted that the medical evidence is not supporting the claim of the applicant. She contended that the alleged incident took place between January 2015 to March 2015 and the FIR was lodged on 9.7.2015 belatedly and therefore, there is every possibility that applicant has been falsely implicated in the present crime. The learned APP. strongly opposed the present application and

submitted that the victim boy in the present case is 15 years of age and the applicant by black mailing the victim boy has committed the heinous crime. She further contended that in the names of Risha Sonecha and Harsha Dalvi face book accounts were opened by the applicant and he thereafter blackmailed the victim by threatening that his nude photos would be circulated on social media.

4) A bare perusal of the statement of the victim boy discloses that the applicant by opening various accounts in fictitious name on the social media has initially lured minor victim boy and subsequently has committed heinous crime against him. The applicant has not only taken undue advantage of the tender age of the victim boy but also exploited him physically. As far as delay in recording of the FIR is concerned though the alleged incident has taken place between January to March 2015, the victim has satisfactorily explained the delay caused in registering the FIR. It is the settled position of law that the victim in the case of sexual assault is not an accomplice in the crime and his statement can be relied upon for basing the conviction in the matter. The statement of the mother of the victim boy annexed with charge sheet further discloses that the mother saw the messages sent by an unknown person directing her son to meet the said person. On enquiry by her with the victim he confided with her and disclosed the entire incident. It is after the said disclosure by the victim the present FIR was registered on 10.7.2015. Thus, in view of the statement of the victim boy which undoubtedly discloses the heinousness involved in the present crime

at the instance of the present applicant. The learned APP.submitted that the applicant and victim boy are residing in the same locality. The victim in the present case is a minor and there is every possibility that if the applicant is released on bail he may admister threats to victim and will tamper with the evidence. I find substance in the said contention.

5) In view of the above, I am of the considered opinion that the present applicant does not deserve to be released on bail.

6) The Application is accordingly dismissed.

(A.S. GADKARI, J.)