

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE – CRIMINAL
BAIL APPLICATION NO.2741 OF 2014

Shashikant Mahendra Sharma	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Bhavesh Parmar a/w Ms Ratrani Roy
i/b Roy's Law Firm, for the Applicant

CORAM: P.D. KODE, J.

DATED: JANUARY 23, 2015.

PC:

1. Learned APP, Mrs. G.P. Mulekar appears, waiving service of notice for the Respondent-State and opts to argue the matter on the basis of the papers of investigation in view of the I.O. being present.
2. By this application the Applicant/accused charge-sheeted by Samatanagar Police Station for offences punishable under section 376 of the IPC r/w section 4 of the Protection of Children from Sexual Offences Act, 2012, has prayed for bail. Learned counsel for the Applicant has pressed the prayer for bail on the ground that there being absolutely no material in the charge-sheet showing involvement of the Applicant in offence under sections 376 of the IPC, it is urged that even accepting the material in the charge-sheet as it is and considering the nature of the

act allegedly occurred at the hands of the Applicant this cannot be said to be a case dis-entitling the applicant for bail. It is urged that as a matter of fact even on the basis of the said material it is difficult to perceive that he committed such an act for satisfying lust and on the contrary, it is suggestive of act being committed in an anxiety to know about sex.

3. Perusal of the charge-sheet reveals that same has been filed regarding two incidents occurred, i.e. first incident in between 9th and 10th of March, 2013 at about 2.00 a.m. while second incident in the early hours of 25.6.2013. Perusal of the charge-sheet reveals that the Applicant was caught on the spot during the occurrence of second incident and on the basis of which people/witness suspected that he was involved in the first incident. Thus, beyond suspicion there exists no material against the Applicant that he was the culprit involved in the first incident in which allegedly some pointing material was inserted into the private part of a minor girl aged about 3 years. With regard to the second incident it appears that the act committed by the Applicant has not transcended beyond fondling with the private part of the victim. Thus, considering the time gap in between two incidents the submission canvassed that the Applicant is falsely implicated in present incident cannot be said to be devoid of merit. Apart from even considering the

legal evidence which is available regarding the act occurred at the hands of the Applicant, and the punishment for commission of such act it is difficult to perceive that even accepting that it was an act committed in respect of a small child, the discretion does not deserves to be exercised in favour of not grant of bail. It appears accordingly, having regard to the number of cases before the Special Court constituted for such offences.

4. Resultantly, the application is allowed. The Applicant is directed to be released in Special Case No.81 of 2014 arising out of C.R. No.88 of 2014 registered Samatanagar Police Station, on furnishing the P. R. Bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only) with one surety to make up like amount and subject to conditions that after his release the applicant shall (i) stay out of the area of Samatanagar Police Station and inform the place of abode to the I.O. and shall attend the local police station for the said area on every Sunday in between 5.00 p.m. to 7.00 p.m. until further order; (ii) not indulge in activity of coming into the contact with the victim or the parents or any other prosecution witness much or less tampering, threatening, coercing, intimidating or pressurizing the prosecution witnesses directly or indirectly in any manner ; and (iii) not misuse the bail granted vide this order for fleeing away or for committing any

further offence.

5. The application accordingly stands disposed of.

(P.D. KODE, J.)