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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.171 OF 2016

Rohidas Chima Padmere

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr R.K. Temkar, Advocate for applicant;
Mr A.S. Shinde, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 17th February, 2016

ORDER :

By the present application under section 439 of the Code of Criminal Procedure, the applicant seeks his release on bail, in connection with C.R. No.I-33 of 2015, registered with Rajur police station, Taluka Akole, Dist. Ahmednagar, for offences punishable under sections 376 (2) (i) (n), 363, 366-A, 323, 504, 506 read with section 34 of the Indian Penal Code and under sections 4, 5 (G) (L) and 6 of the Protection of Children from Sexual Offences Act.

2. The prosecution story against the present applicant is that the victim, namely, Usha, aged about 15 years, alleged that applicant along with co-accused abducted her and committed rape repeatedly by giving false promise of marriage.

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3. While trying to make out a case for grant of bail, learned Counsel appearing on behalf of the applicant would urge that since the investigation in the matter is already complete and charge-sheet is filed, further detention of the applicant in the present case is not necessary. He would then invite my attention to the order dated 30th September, 2015, passed by this Court granting bail to co-accused Gorakh Dunda Padmere, to whom the role attributed is some what similar to that of the present applicant. He would then urge that the story narrated in the first information appears to be improbable and would also invite attention of this Court to the medical evidence.

4. Learned Addl. Public Prosecutor opposed the application on the ground that there is *prima facie* evidence against the applicant in relation to his involvement in commission of the crime in question. In addition, he would urge that the statements of the witnesses, i.e. family members of the victim speak about involvement of the applicant in the crime. Apart therefrom, he would invite attention of this Court to the fact about invoking of the provisions of the Protection of Children from Sexual Offences Act against the applicant. He would submit that the application be rejected.

5. Perused the entire charge-sheet and minutely considered the details narrated in the first information report dated 10th June, 2015. Perusal of the first information report depicts that the victim Usha was in the custody/company of the applicant for more than three months. She travelled with the applicant from one place to another and this fact was

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rather in the knowledge of the family members of the victim Usha. The family members of Usha have neither lodged any report of missing nor took any steps to find out her.

6. Apart from above, it is noted that medical evidence does not support the case of the prosecution in its entirety.

7. It is apparent from the investigation papers that the complainant-victim Usha has remained in the company of the present applicant voluntarily.

8. The role attributed to the present applicant is to the extent of commission of offence of rape and abduction, which appears to be similar to that of co-accused Gorakh, who is already ordered to be released on bail by this Court on 30th September, 2015 in Criminal Application No.4930 of 2015.

9. The applicant undertakes to stay outside village Pendshet, Taluka Akole, Dist. Ahmednagar till conclusion of the trial. He is granted liberty to enter the jurisdiction of the concerned court only for the purpose of attending the court proceedings.

10. In the above background, in my opinion, it will be appropriate to allow the application. Hence, the following order :-

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The applicant be released on bail, in connection with C.R. No.I-33 of 2015, registered with Rajur police station, Taluka Akole, Dist. Ahmednagar for offences punishable under sections 376 (2) (i) (n), 363, 366-A, 323, 504, 506 read with section 34 of the Indian Penal Code and under sections 4, 5 (G) (L) and 6 of the Protection of Children from Sexual Offences Act, on furnishing P.R. Bond of Rs.10,000/- with one surety in the like amount.

The applicant shall stay outside village Pendshet, Taluka Akole, Dist. Ahmednagar till conclusion of the trial. He is granted liberty to enter the jurisdiction of the concerned court only for the purpose of attending the court proceedings.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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