

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

CRIMINAL APPLICATION NO.340 OF 2016

Kalyan Laxman Shinde,
Age 25 years, Occu. Private Service,
R/o Bangaon, Taluka Ambad,
District Jalna

.. Applicant

Versus

The State of Maharashtra,
through Police Station, Gondi,
Taluka Ambad, District Jalna

.. Respondent

Mr P.P. More, Advocate for applicant
Mr A.S. Shinde, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 3rd February 2016

PER COURT

Heard.

2. The applicant is seeking regular bail in Crime No.I-167/2015, registered at Gondi Police Station, Taluka Ambad, District Jalna, for the offences punishable under Sections 363, 376 read with Section 3 and 4 of the Protection of Children from Sexual Offences Act, 2012.

3. The prosecution story against the applicant is that the applicant has abducted the minor girl Shamal and has raped her.

4. While trying to make out a case for grant of bail, learned Counsel for the applicant has invited my attention to the fact that the investigation in the matter is complete and charge-sheet is already filed. He would then submit that the story narrated in the F.I.R., the statement of the victim recorded on 11th October 2015 and the

medical report do not confirm about the alleged incident of rape. He has invited my attention to the statement of witness namely Prinyanka, who claimed to be an eye witness to the incident. According to him, the applicant is falsely implicated in the crime in question.

5. Learned A.P.P., while opposing the application would urge that there is prima facie evidence against the applicant of his involvement in the crime in question and the statement of victim is sufficient to secure his conviction. He then would rely upon the statement of other witnesses and the circumstances in which the incident has occurred.

6. With the assistance, I have perused the charge-sheet. It is claimed by the victim that on 10th October 2015, the applicant followed her and has used certain chemical substance i.e. chloroform and made her unconscious. She then stated in statement that after she became unconscious, the applicant had taken her in the field and raped her till next day morning.

7. The said story prima facie appears to be unbelievable for two reasons, (a) after she became unconscious, how she was able to narrate all the incident by the time, when she gained consciousness, and (b) the medical evidence does not confirm the story narrated by the victim.

8. Perusal of medical evidence depicts no conclusion about committing sexual intercourse. Though it is claimed by the victim that she was subjected to the offence in question in the field, however, no external injury was noticed on the body of victim. The doctors have also noticed no smell of any medicine or chemical substance, which was used for making her unconscious.

9. Apart from above, statement of witness Priyanka does not support to the story stated by the victim.

10. In this background, in my opinion, false implication of the applicant cannot be ruled out. As such, applicant deserves to be released on bail.

11. The applicant be released on bail in Crime No.I-167/2015, registered at Gondi Police Station, Taluka Ambad, District Jalna, for the offences punishable under Sections 363, 376 read with Section 3 and 4 of the Protection of Children from Sexual Offences Act, 2012, upon furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

12. The applicant shall remain outside village Bangaon for a period of one year or till conclusion of trial, whichever occurs first.

13. Criminal Application stands allowed in above terms.

14. The observations made herein above, are prima facie in nature.

(N.W. SAMBRE, J.)