

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

Criminal Application No. 2352 of 2016

District : Beed

Bharat s/o. Laxman Kashid,
Age : 24 years,
Occupation : Agriculture
and Labour,
R/o. Karewadi,
Taluka : Parali,
District : Beed.

.. Applicant.

versus

The State of Maharashtra
(Through Shirsala Police
Station, Taluka : Parali,
District : Beed).

.. Respondent.

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*Mr. D.R. Markad, Advocate, holding for
Mr. Ganesh P. Darandale, Advocate, for the
applicant.*

*Mr. A.S. Shinde, Addl. Public Prosecutor, for
the respondent - State.*

*Mr. Anil M. Gaikwad, Advocate, for the original
complainant.*

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CORAM : N.W. SAMBRE, J.

DATE : 16TH JUNE 2016

PER COURT :

Heard.

2. The applicant is arrested in connection with Crime No. 97/2015, on 17th December 2015, for offences punishable under Sections 376, 306 read with Section 34 of the Indian Penal Code and Sections 4 & 6 of the Protection of Children From Sexual Offences Act, 2012 [**For short, "Act of 2012"**].

3. Perused the FIR. Prima facie, in my opinion, Sections 4 & 6 of the Act of 2012 cannot go parallel with that of Section 376 of the IPC as either one of it has to be invoked. The learned Addl. Public Prosecutor seems to be in agreement with the said proposition.

4. The prosecution case against the present applicant is that the Crime No. 97/2015, punishable with the above referred Sections is registered against the applicant had repeatedly committed rape on minor daughter of the complainant, namely Ashwini and as such, Ashwini committed suicide.

5. But for statement, there is no material on record to infer that there is prima facie material against the applicant. Though Mr. Gaikwad, the learned Counsel for the complainant, who is assisted by the learned Addl. Public Prosecutor, relies on the presumption under Section 29 of the Act of 2012, however, said presumption is rebuttable. It is then required to be noted that the learned Addl. Public

Prosecutor, Mr. Shinde, opposing the application submitted that the statement of mother and friend of the victim is sufficient evidence to rope in the applicant.

6. I have given anxious consideration to the submissions advanced by both the parties. In my opinion, in the light of the material, as is collected in the investigation, there is hardly any evidence apart from the the oral statement, to connect the applicant with the crime in question. Hence, the applicant deserves to be enlarged on bail till conclusion of trial.

7. The Application is allowed with the following directions :-

(a) The applicant is directed to be released on bail, in connection with Crime No. 97/2015, registered with Police Station, Shirsala, Taluka Parali, District Beed, for offences punishable under Sections 376, 306 read with Section 34 of the Indian Penal Code and Sections 4 & 6 of the Protection of Children From Sexual Offences Act, 2012, on his furnishing P.R. Bond in the sum of Rs. 15,000/- with one surety in the like amount.

(b) The applicant shall not enter into the jurisdiction of Police Station, Shirsala, without

prior permission of the learned Sessions Judge.

(c) The applicant shall not try to contact the prosecution witnesses and he shall not try to tamper the prosecution evidence in any manner whatsoever.

8. The Application stands disposed of in the aforesaid terms.

(N.W. SAMBRE)
JUDGE

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