

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

2 CRIMINAL APPLICATION NO. 4455 OF 2016

BHARAT ANANDA GAWALI

VERSUS

**THE STATE OF MAHARASHTRA
& ORS.**

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Mr. A.C.Bhagure, Advocate for Applicant.

Mr. S.M.Ganachari, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 14th OCTOBER, 2016

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PER COURT :

1. The applicant/accused in Crime No. 131/2016 registered at New Mondha police station, Parbhani, Dist. Parbhani for the offences punishable u/ss 376 (2) (i), 363 read with 34 of the Indian Penal Code and u/s 3 and 4 of the Protection of Children from Sexual Offences Act, 2012, by this application is praying for releasing him on bail.

2. Heard the learned counsel for applicant/accused

as well as the learned A.P.P. The learned A.P.P. opposed the application by contending that the applicant is referred to by the victim as well as the step mother of the victim in the crime in question and, therefore, considering the nature of offences, present applicant is not entitled for bail.

3. Perused the charge sheet. The crime in question is registered on the basis of the report of the Superintendent of Bal Sudhar Griha, Parbhani. She reported that a minor female inmate of said Bal Sudhar Griha had eloped on 22/03/2016. Ultimately, that minor female victim of the crime in question was traced out and her statement is recorded by the Investigating Officer. She reported that after fleeing from the Bal Sudhar Griha, she contacted co-accused Rahul and joined his company in the house at Partur. Therefore, according to the prosecutrix, co-accused Rahul committed rape on her and one more person who is described by the prosecutrix as 'Daji' had helped Rahul in that act by sending them both in one room.

4. *Prima facie*, it is seen that there is identification parade to conclude that present applicant is the person

described as 'Daji' by the minor female victim of the crime in question. Even otherwise, statement of minor female victim shows that she joined company of co-accused Rahul by visiting the house where he was staying. It is further alleged that one person named 'Daji' had sent them both in a room. With these averments and with this quality of evidence against present applicant, his further pre-trial detention is not warranted and I see no reason to refuse bail to him. Hence, the following order.

(i) The application is allowed.

(ii) Applicant Bharat s/o Ananda Gawali in Crime No. 131/2016 registered at New Mondha police station, Parbhani, Dist. Parbhani for the offences punishable u/ss 376 (2) (i), 363 read with 34 of the Indian Penal Code and u/s 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 be released on bail on executing P.R. Bond of Rs. 20,000/- [Rupees Twenty Thousand] and on furnishing surety in the like amount.

(iii) As a condition of this Order, the applicant shall

not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

(iv) The applicant shall not tamper the evidence of the prosecution.

(v) The applicant shall co-operate the trial Court in the expeditious disposal of the trial against him.

[A.M.BADAR, J.]