

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION No.54 OF 2016

Pandu Mahadu Ambavane .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.R.N.Gite, Advocate, for the Applicant
Ms A.T.Javeri, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 04.05.2016

P.C.

. Heard learned counsel for the Applicant
and the learned APP for the Respondent – State.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.4 of 2015 registered with the Ghoti Police Station, District – Nasik, for the alleged offences punishable under Sections 354, 354A, 354B, 354D & 452 of the Indian Penal Code and under Sections 4 & 8 of the Protection of Children from Sexual Offences Act (For short

'POCSO' Act). It appears that subsequently, Section 376 of the Indian Penal Code was added.

3. The Complainant is aged 16 years and was studying in Std. 10th in the same School in which the Applicant aged 19 years was studying. She has alleged that on 06.01.2015, the Applicant tried to outrage her modesty when she was returning from School. She has further alleged that in the afternoon, when she was alone at home, the Applicant came and tried to outrage her modesty, however, as her mother returned home, the Applicant ran away. She has stated that as the Applicant had outraged her modesty, she attempted suicide by consuming poison. Initially, the offences alleged were under Sections 354, 354A, 354B, 354D & 452 of the Indian Penal Code and under Sections 4 & 8 of the Protection of Children from Sexual Offences Act. Thereafter, on 02.03.2015, the Complainant's statement came to be recorded

under Section 164 of the Code of Criminal Procedure, pursuant to which Section 376 of the Indian Penal Code came to be added, with respect to the same incident, for which the complaint dated 07.01.2015 was lodged.

4. Learned counsel for the Applicant submitted that pursuant to the FIR lodged on 07.01.2015, alleging offences punishable under Sections 354, 354A, 354B, 354D & 452 of the Indian Penal Code and under Sections 4 & 8 of the Protection of Children from Sexual Offences Act, the Applicant came to be arrested on 13.01.2015 and thereafter, was enlarged on bail on 15.01.2015. He submitted that thereafter, after the statement of the Complainant was recorded on 02.03.2015 alleging an offence punishable under Section 376 of the Indian Penal Code with respect to the same incident of 06.01.2015, the learned Sessions Judge cancelled the bail granted to the Applicant vide order

dated 09.04.2015, pursuant to which the Applicant surrendered on 10.04.2015. He submitted that the Applicant has been in custody since then. He submitted that investigation is complete and charge-sheet is filed and that the Applicant is ready to abide by any of the conditions which will be imposed by this Court. He submitted that the allegation of Section 376 was not disclosed in the FIR lodged by the Complainant on 07.01.2015 and was alleged only subsequently, after the Applicant was enlarged on bail.

5. Learned APP submits that stringent conditions may be imposed, considering the fact that both i.e. the Applicant and the Complainant, are residing in the same village.

6. Perused the papers. It appears that initially, the allegations which were made by the Complainant on 07.01.2015 were for the

alleged offences punishable under Sections 354, 354A, 354B, 354D & 452 of the Indian Penal Code and under Sections 4 & 8 of the Protection of Children from Sexual Offences Act, pursuant to which the Applicant was arrested on 13.01.2015 and enlarged on bail on 15.01.2015. It appears that subsequently, on 02.03.2015, the Complainant in her statement recorded under Section 164 of the Code of Criminal Procedure, has alleged an offence punishable under Section 376 of the Indian Penal Code, with respect to the same incident for which the FIR was lodged. The Applicant is aged 19 years. Investigation is complete and charge-sheet is filed.

7. Considering the facts of the case, the Applicant is enlarged on bail on the following terms & conditions:

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.10,000/- with

one or two sureties in the like amount;

(ii) The applicant shall report to the investigating officer of the Ghoti Police Station, District – Nasik on the 1st and 3rd **Sunday of every month** between 10.00 a.m. and 11.00 a.m., initially for a period of 12 months and thereafter, on the 1st Sunday of every month till the conclusion of the trial;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)