

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

BAIL APPLICATION NO.214 OF 2016

Akshay Balu Bachhav

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Rupesh A. Zade for the Applicant.

Mr. Arfan Sait, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 4th FEBRUARY, 2016.

P. C. :

This is an application for bail filed by the aforesaid Applicant, who is facing trial in Special Case No.338 of 2015 for offences punishable under sections 363, 366 and 376 of the Indian Penal Code and under sections 4 and 12 of the Protection of Children from the Sexual Offences Act, 2012.

2. The case of the prosecution in brief is that on 29.8.2015 the Applicant had abducted the minor girl and had sexual intercourse with her. The FIR dated 1.9.2015 was lodged by the brother-in-law of the prosecutrix, pursuant to the said complaint, Crime No. I-292 of 2015 came to be registered at Sarkarwada Police Station, District -Nashik.

The Applicant was arrested on 3.9.2015. Said crime was investigated and upon completion of the investigation, charge-sheet was filed before the learned Magistrate and case being sessions triable was committed to Sessions Court, Nashik. The Applicant had filed an application for bail before the Special Judge, Nashik. Same came to be dismissed vide order dated 21.12.2015 passed by the Special Judge and Additional Sessions Judge-1, Nashik. Hence, the present application.

3. Heard Mr. Rupesh Zade, the learned counsel for the Applicant and Mr. Arfan Sait, the learned APP for the Respondent -State.

4. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties. The FIR prima facie indicates that the prosecutrix and the Applicant herein were in love with each other. The FIR further reveals that on 29.8.2015 the prosecutrix had herself proceeded towards the river bank and thereafter she had not returned home. The statement dated 3.9.2015 of the prosecutrix, who is 16 years age, indicates that she was in love with the Applicant and that she had gone near the Ganpati Temple to meet the Applicant. She had further stated that thereafter

she and the Applicant had proceeded to the house of one of the friends of the Applicant. She had stated in her said statement that she had lived with the Applicant for two days and the Applicant did not have physical relations with her and had not threatened her. It is to be noted that in the subsequent supplementary statement, the prosecutrix has given a different version and has claimed that she had accompanied the Applicant only because of threats given by him and that the Applicant had forcible sexual intercourse with her.

5. Considering the aforesaid inconsistent statements and so also considering that the Applicant is himself of 21 years of age and has no criminal antecedents, the application is allowed on the following terms and conditions :-

- (i) The Applicant is ordered to be released on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety to the like amount to the satisfaction of the learned Special Judge and Additional Sessions Judge-1, Nashik.
- (ii) The Applicant shall not interfere with the victim or the other witnesses in any manner.

(iii) The Applicant shall furnish his contact number and permanent as well as temporary address, if any, to the Investigating Officer. The Investigating Officer shall verify the same before the Applicant is released on bail.

(iv) The Applicant shall not leave Nashik- District without prior permission of the Court till the completion of the trial.

(ANUJA PRABHUDESSAI, J.)