

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 298 OF 2016

Raju Bhimsingh Rathod	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Arun Rajput h/f. Ms. Anjali Patil, Advocate for the applicant.
Ms. A.T. Zaveri, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **16th March, 2016.**

P.C.:

This Application is moved for bail. The applicant/accused is facing charges under sections 354B, 354C, 363, 342 r/w. 34 of the Indian Penal Code and under section 8 of the Prevention of Children from Sexual Offences Act, 2012. The offence is registered at the instance of mother of one of the victim on 3rd August, 2015 at C.R. No. 203 of 2015 with R.C.F. Police Station, Mumbai.

2. It is the case of the prosecution that the complainant is a mother of one of the victims. She was studying in 7th Standard. She used to go to school along with her friend. On 3rd August, 2015 it was informed to the parents that the girl had come to school but she did not attend the class. So, her mother immediately went to school and there she met the maternal aunt of other girl who also went to school by bus but did not attend the

class. So, an enquiry was made with the driver who informed that these two girls boarded the bus but got down. Then the driver went away and brought the girls at 11 a.m. It was reported by the two victim girls that the cleaner/applicant forcibly put these two girls in the rickshaw and he took them in one house. Other cleaner of the bus, i.e. co-accused Ankush arrived there and forced the girls to remove their clothes and outraged their modesty. The applicant/accused took obscene photographs of one victim and thereafter an offence was registered against the applicant/accused and co-accused. The applicant/accused was arrested on 3rd August, 2015 and since then he is in prison. Hence, this Bail Application.

3. The learned counsel for the applicant/accused submitted that the applicant/accused is 20 years old. He has not committed any offence. The girls themselves went along with the applicant/accused and other accused. The learned counsel further submitted that the learned Sessions Judge by an order dated 3rd November, 2015 has allowed the Bail Application of co-accused and he is released on bail. However, the Application of present applicant/accused is rejected by an order dated 9th December, 2015 mainly on the ground that he took the victim's obscene photographs. The learned counsel submitted that the cell phone of the applicant/accused has been seized by the police. Therefore, he prays parity.

4. Learned APP while opposing the Application submitted that the girls are minor. They are 13 years old and school going girls. She submitted that the applicant/accused has taken obscene photographs of the victim and hence, the bail is to be rejected.

5. Perused the FIR. The charge sheet is filed. The applicant/accused is facing charges under sections 354B, 354C, 363 and also under section 8 of Prevention of Children from Sexual Offences Act. Both the girls are of 13 years old. The applicant/accused is 20 years old. The cell phone of the applicant/accused is seized by the police, as it is the case of the prosecution that he took obscene photograph of one of the victims. The Sessions Court has grant bail to co-accused. Considering the charges levelled against the applicant/accused and his age, bail is granted to the applicant/accused on the following terms and conditions:

ORDER

- (i) The applicant/accused be enlarged on bail on furnishing P.R. Bond in a sum of Rs.25,000/- with one or two sureties in the like amount.
- i) The applicant shall not tamper with the evidence.
- ii) The applicant shall not contact the victim girls.
- iii) The applicant shall not commit any offence of similar nature.

- iv) The applicant shall not work as a cleaner in the school bus in which these girls are travelling.
 - v) The applicant shall make himself available and attend all Court dates;
 - vi) The applicant shall not abscond and furnish his address to the police along with address proof.
 - vii) The applicant shall not leave India without the prior permission of the Court.
 - viii) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.
6. The Application stands disposed of on above terms.

(MRIDULA BHATKAR, J.)