

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.418 OF 2016

Pradeep Narendra Singh	... Applicant
vs.	
The State of Maharashtra	... Respondent

Mr. D.P. Adarkar, for the Applicant.
Mr. S.H. Yadav, APP for Respondent – State.
PSI. Mr. P.P. Nawle, Dindoshi police station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **16th MARCH, 2016**

P.C.:

. The application is moved for bail. The applicant/accused is facing charges for the offences punishable under Section 376 of the Indian Penal Code and under Sections 3, 4, 7 and 8 of Protection of Children from Sexual Offences Act, 2012 (POCSO) in C.R. No. 747 of 2015 registered with Dindoshi police station, Mumbai. The mother of the prosecutrix lodged the complaint on 12th December, 2015.

2. It is the case of the prosecution that, the prosecutrix is 3 years and 5 months old. The mother of the prosecutrix is staying along with her son aged 18 years old and the prosecutrix. The

applicant/accused is the neighbour of the prosecutrix. The family of the prosecutrix had started residing there four months prior to the incident. The prsoecutrix used to go to the house of the applicant /accused to play. On 12th December, 2015 in the afternoon at about 1.00 p.m. when the mother of the prosecutrix was filling water from the public tap, her daughter arrived there. She was crying and when she asked the reason, the girl showed her private part and started crying loudly. The mother examined the private part of the child and found that she was raped. She found semen on her nicker and also on her private part. She removed semen with the nicker of the child and called neighbours. Her son arrived there and asked the prosecutrix who had done the wrong. At that time, she pointed out the applicant/accused and started crying. The mother of the prosecutrix realized that her daughter is sexually assaulted. So she gave complaint with police. The applicant/accused was arrested on the same day i.e. 12th December, 2015 and since then he is in prison. Hence, this bail application.

3. The learned counsel for the applicant/accused submits that the charge-sheet is filed by the police. The statement of Ketan,

brother of child is not recorded in this case though he claimed to be present on the spot. He submitted that out of neighbours, statement of only one lady is recorded. He further submitted that the medical certificate is not legible and it does not make out whether the child was raped or not. There is no evidence against the present applicant/accused and therefore he be released on bail. There are no antecedents against the applicant/accused.

4. The learned prosecutor relied on the statement of the mother of prosecutrix and the statement of lady who was present there staying in the vicinity.

5. Perused the first information report and other documents. The first information report discloses that when the mother of the prosecutrix was filling water from a public tap, her daughter aged 3.5 years arrived there. She was continuously crying. She showed her private part to her mother. At that time, she examined the private part of her daughter and found that she was raped. She also found semen on the nicker and on the private part of the child. She immediately called her neighbour and showed her child's nicker to her neighbour

who had stated accordingly in her statement. Thereafter, she lodged complaint. Immediately the child was sent for medical examination. It is very unfortunate that the medical certificate in such a serious case, is not legible. However, at this stage it is found that the prosecutrix was immediately sent for the medical examination. The statement of the child is not recorded as she is 3.5 years old girl.

6. Considering all the above circumstances and as the offence is of very serious nature, I am not inclined to grant bail to the applicant/accused. Hence, bail application stands rejected.

7. I note that the statement of Ketan, the brother of prosecutrix who was present at the scene of the offence is not recorded. I am informed that the investigating officer Mr. Girish Anavkar (P.I.) is sent for A.T.S. training and the police officer who is present in the Court today is not in a position to answer the query made by the Court.

(MRS.MRIDULA BHATKAR, J.)