

Anand

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

CRIMINAL APPLICATION NO.453 OF 2016
(For Regular Bail)

Yogesh Chhabu Ankulnekar .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Sachin Gite, Advocate, for the Applicant
Mr.Arfa Sait, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 08.03.2016

P.C.

. At the outset, learned counsel for the Applicant seeks leave to amend to delete the name of the prosecutrix, wherever it appears in the Application. Leave granted. Amendment to be carried out forthwith.

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

3. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-105 of 2015 registered with the Yeola Police Station(Rural), District – Nashik, for the alleged offences punishable under Sections 363, 366, 376(1)(2), 504 r/w.34 of the Indian Penal Code.

4. A missing complaint was filed by the mother of the prosecutrix on 21.06.2015. On 21.06.2015, a complaint was lodged by the mother of the prosecutrix against the Applicant, alleging that the Applicant along with one Rishikesh Pawar had induced her daughter and had kidnapped her. Pursuant to the said complaint, offences punishable under Sections 363 and 366 r/w.34 of the Indian Penal Code were registered as against the Applicant and Rishikesh Pawar. On 21.06.2015, the Applicant and the prosecutrix came to Yeola Police Station pursuant to which the prosecutrix's statement was

recorded. In the said statement, the prosecutrix has stated that she had left her house, on her own accord and had stayed in an Ashram for a few days and after she contacted the Applicant, he brought her to the police station. The prosecutrix was sent for medical examination to the Civil Hospital, Nashik. Thereafter, on 22.06.2015, the prosecutrix's supplementary statement was recorded, in which she disclosed that she be sent to the remand home, as she apprehended danger to her life from her family. Thereafter, on 26.06.2015, another supplementary statement was recorded in which for the first time, she has alleged that the Applicant along with Rishikesh Pawar kidnapped her and that the Applicant had sexually assaulted her at Nashik. Pursuant to the said statement, the prosecutrix was again sent for medical examination.

5. Learned counsel for the Applicant submitted that in the first and second statement,

the prosecutrix had not made any allegations as against the Applicant. He submitted that in fact, both the medical reports do not show that there was any sexual assault on the prosecutrix. He submitted that the Applicant is 21 years of age and that charge-sheet has been filed in the said case and hence, the Applicant be enlarged on bail on any terms and conditions.

6. Learned APP submitted that although the prosecutrix had not disclosed the complicity of the Applicant in the 1st two statements, she has implicated the Applicant in her 3rd statement. He submits that the prosecutrix was 16 years of age at the relevant time.

7. Perused the papers. It appears that initially, in the 1st two statements, the prosecutrix has not implicated the Applicant and it is only in her 3rd statement, for the first time,

she has alleged that the Applicant sexually assaulted her. Prima facie, the first medical report does not disclose the commission of any sexual offence on the prosecutrix. Similarly, the second medical report also does not clearly reveal any sexual assault on her.

8. Considering the peculiar facts of the case, the applicant deserves to be enlarged on bail on the following terms and conditions :

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

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

(iii) 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;

(iv) The applicant to cooperate with the conduct of the trial;

(v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

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

10. 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.)