

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.562 OF 2016

Ravi Dilip Sonawne

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Charan Penthalia i/b Mr.J.M. Bhagia for the Applicant
Ms.Rutuja Ambekar, APP, for Respondent – State

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

DATE: **MARCH 23, 2016**

P.C.:

1. This is a bail application by the applicant-accused as he is facing charges under sections 376 (2)(j), (2)(n) r/w section 34 of the Indian Penal Code and sections 3, 4,5(L), 6, 16 and 17 of the Protection of Children from Sexual Offences Act, 2012 in C.R. No.I-315 of 2016 registered with Vithalwadi police station. The offence is registered at the instance of the mother of the prosecutrix on 20.10.2015.

2. It is the case of the prosecution that prosecutrix was studying in XI Std. at Ulhasnagar. On 19th October, 2015 she went to the college but did not return home. Therefore, her family members started enquiring about her. She returned home on the next date at 15.30 hours and informed that applicant/accused, who is friend of principal accused Mukesh Shivnath Ahire, told her that Mukesh Ahire asked her to meet him at 8 p.m. and then

the applicant took her near the water tank of the school. The principal accused Mukesh arrived there on his motorcycle and then applicant/accused and his friends left her there. Mukesh Ahire promised her that he would marry her and told her to come with him. He also threatened that if she would not come with him, then he will not leave her family members. The prosecutrix went with Mukesh Ahire to his house. They had food and then he had sexual relations with her. Thereafter, he took her to Haji Malang and they were chit-chatting at the road side. Then, he dropped her and she came home in the afternoon. Her statement under section 164 was also recorded. Same role is attributed to the applicant/accused and it is further added by the prosecutrix that the applicant/accused used to touch her body and also of her two friends.

3. The learned Counsel submitted that the applicant-accused seeks bail on parity as this court has released the co-accused Nitin Dilip Baviskar on 9.3.2016 in bail application No.465 of 2016. He submitted that the applicant-accused has not committed any offence muchless the offence under section 376 r/w 34 of the Indian Penal Code or under Protection of Children from Sexual Offences Act, 2012. The only role attribute to the applicant-accused is that he conveyed the message of principal accused Mukesh to the girl to go on his motor cycle and he dropped her where Mukesh was standing. The learned counsel for the applicant/accused

submitted that the applicant/accused is a friend of principal accused Mukesh Ahire, who is facing charges under section 376 of Indian Penal Code. The learned Counsel further submitted that from October 2015, the applicant/accused is in the prison. He is a boy of 19 years, who is studying in F.Y.J.C. His examination is scheduled on 31st March, 2016.

4. Learned APP opposed the Bail Application. She submitted that the applicant/accused is charged under section 376 r/w. 34 of the Indian Penal Code and also under Prevention of Children from Sexual Offences Act. She submitted that principal accused Mukesh Ahire has created terror in the vicinity and, therefore, the prosecutrix could not raise any objection. The applicant/accused has forcibly taken her to principal accused Mukesh Ahire near the water tank. She submitted that the applicant-accused had threatened the prosecutrix that the principal accused has called her and had forced her to go and see the principal accused. Chargesheet is filed in the present C.R.

5. I have gone through the FIR given by the mother of the prosecutrix, statement of the prosecutrix and also her statement under section 164 of the Indian Penal Code. In her statement, the prosecutrix has mentioned that the applicant/accused used to touch the body of her two friends. A statement of one of her friends is recorded, however, she has not stated anything about it. On the contrary, her friend has stated that

applicant/accused told her that Mukesh is awaiting for her and she went along with him without any resistance. Considering the contents in the statement and tenor of the behaviour of the prosecutrix, *prima facie*, no role is attributed to the applicant/accused. Even after considering the documents produced and the allegations made against the applicant/accused, I do not find any evidence against him. The applicant/accused is detained in prison since October, 2015. It is a fit case to grant bail. Hence, 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.10,000/- with one or two sureties in the like amount.
- (ii) The applicant shall not tamper with the evidence.
- (iii) The applicant shall not harass, threaten or pressurize the complainant and her family members.
- (iv) The applicant shall not indulge into any kind of criminal activity.
- (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.)