

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

BAIL APPLICATION NO.814 OF 2015

Nagraj Sudam Shinde

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Ashok P. Mundergi, Senior counsel i/b. Mr. Priyal Sarda
for the Applicant.

Ms G.P. Mulekar, APP for the Respondent -State.

Mr. R.B. Girme, Head constable, ACP, Swargate police station,
Pune, present.

Mr. Siddheshwar B. Kalal i/b. Mr. Amarnath S. Boddul for the
Intervenor present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 25th FEBRUARY, 2016.

P. C. :

This is an application for bail filed by the aforesaid Applicant, who is facing trial in Sessions Case No.35 of 2015 pending on the file of Additional Sessions Judge, Pune, for offences punishable under section 376 of the IPC and under sections 3 and 4 of the Protection of Children from the Sexual Offences Act, 2012 and 3 (1), 11 and 12 of the Scheduled Castes and Scheduled Tribes Act.

2. The said case arises from C.R. No.327 of 2014 registered at Bharti Vidyapith Police Station, Pune, pursuant to the FIR lodged by

mother of the minor girl, who was allegedly sexually abused by the Applicant herein. The Applicant herein was arrested on 10.11.2014. Upon completion of the investigation, charge sheet was filed and the case being sessions triable, committed to the Sessions Court, Pune. The Applicant herein had filed an application for bail, which came to be rejected vide order dated 2.4.2015 passed by the Additional Sessions Judge, Pune. Hence, the present application.

3. Mr. Ashok Mundergi, the learned senior counsel for the Applicant has submitted that the prosecution has not produced the C.C.T.V. records, which were seized by the prosecution under panchnama dated 4.8.2014. He has further submitted that there is no prima facie material to show the involvement of the Applicant in committing the said crime.

4. Ms G.P. Mulekar, the learned APP submits that the statement of the victim *vis-a-vis* the medical records prima facie indicate the involvement of the Applicant in committing the said crime, which is of serious nature. She has further submitted that the C.C.T.V. footage has been forwarded to forensic lab (CFSL), Kalina and the records will be made available to the Applicant as soon as they are received from said lab.

5. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent -State. The records prima facie reveal that the first informant and her family members as well as the Applicant were residing in the same building situated at Ambegaon, District-Pune. Both the families were acquainted with each other. Records reveal that in the month of June, 2015, the wife of the Applicant had gone to her parental house for delivery and during that period the complainant used to send meals to the Applicant through her daughter, who was about 15 years of age.

6. The FIR prima facie reveals that the elder sister of the victim had read one objectionable SMS sent by the Applicant on the mobile of the victim and when questioned, the victim had told her that the Applicant herein was trying to establish physical relationship with her. The first informant had questioned the Applicant about the same. It is alleged that the Applicant had assured to keep the victim in a hostel and bear her educational expenses. The first informant had further stated that the Applicant herein had told her that he would marry the victim after she attains the age of 18 years. The first informant has stated that she and the other ladies from the building

had questioned the victim and that she had disclosed that the Applicant had sexually abused her.

7. The statement of the victim also prima facie reveals that she knew the Applicant herein and that she used to go to his house to play carom and chess. Her statement further indicates that on 22.6.2014 the Applicant had told her that he loves her and that he would ensure that she gets proper education. She has stated that she also started loving the Applicant and they used to send messages to each other. The statement of the victim prima facie reveals that on 26.6.2014 the Applicant herein had sexually abused her and had told her not to disclose the incident to anyone.

8. The statement of the victim prima facie discloses the essential ingredient of offence punishable under section 375(b) of the IPC as well as section 3 of the Protection of Children from Sexual Offences Act, 2012. The medical evidence also prima facie corroborates the statement of the victim. The material on record thus prima facie indicates that the Applicant, who was a Judicial Officer, herein was involved in sexually assaulting a minor girl from scheduled caste community. The offence is of serious nature. The trial has not

yet commenced. Considering the status of the Applicant *vis-a-vis* the status and the age of the victim, release of the Applicant on bail at this stage can hamper the trial and thwart the course of justice.

9. Under the circumstances, the application is dismissed.

(ANUJA PRABHUDESSAI, J.)