

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

BAIL APPLICATION NO. 1029 OF 2016

Kamlesh Parsram Balani	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

Mr. Satyavrat Joshi Advocate for the Applicant.
Ms. R.M. Gadhvi, A.P.P for the Respondent - State.

CORAM : A.S. GADKARI, J.

DATED : 8th SEPTEMBER, 2016.

P.C. :

1 This is an application under Section 439 of Cr.P.C. for bail in C.R. No.I/222/2015 dated 02.07.2015 registered with Vitthalwadi Police Station, District Thane, under sections 363, 366, 376 (2)(j), (2)(n) of Indian Penal Code and under sections 3, 4, 5(l) and 6 of Protection of Children from Sexual Offences Act, 2012.

2 The First Information Report is lodged by the mother of victim girl Smt. Ambica Mane, on 02.07.2015. On the basis of the said report, the aforesaid First Information Report is lodged by the Police. During the course of investigation, the statement of the victim girl, who was at that relevant time about 16 years of age is recorded on 08.07.2015. That the statement of the victim girl, under section 164 of Cr.P.C. is also recorded by the learned Judicial Magistrate, First Class, 6th Court, Ulhasnagar, on 27.07.2015. The applicant was arrested on 5th July 2015. That after

completion of the investigation, the police have submitted chargesheet on 14.09.2015.

3 Heard the learned counsel for the applicant and the learned A.P.P. also perused the entire chargesheet annexed to the present application. The learned counsel appearing for the applicant submitted that a bare perusal of the statement of the victim girl recorded under section 161 so also under section 164 of Cr.P.C. would reveal that the alleged act has contemplated under section 376 of the Indian Penal Code was a Consensual act. Prima facie I find substance in the said submission. It is to be noted here that the victim girl who was at the relevant time aged about 16 years, had stayed with the applicant at the place of the aunt of the applicant for about 18 to 20 days. It prima facie appears from the evidence available on record that the victim girl had attained the age of understanding on the date of registration of offence and at her free will had accompanied the applicant at various places.

4 In view of the above, the applicant has made out a case for his release of bail.

5 Hence the following order :-

(i) The applicant be released on bail in C.R. No.I/222/2015 registered with Vitthalwadi Police Station, District Thane, on his furnishing P.R. bond of Rs.25,000/- with one or more local sureties in the like amount.

(ii) After his release from the jail, the applicant shall not enter the jurisdiction of Vitthalwadi Police Station except for marking his presenty as is directed herein below.

(iii) After his release from the jail, the applicant shall attend the Vitthalwadi Police Station once in three months on every 1st Monday of the said month between 11.00 a.m.to 1.00 p.m.

(iv) Before his release from the jail, the applicant shall provide the documents pertaining to the address where he intends to reside after his release from jail.

(v) Any two consecutive defaults in complying with the aforestated conditions, shall attract the provisions of cancellation of bail.

(vi) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)