

*Ladda*FARAD CONTINUATION SHEET No.IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRI. BAIL APPLICATION NO. 1270 OF 2015

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr Ashok Singh for the applicant.

Smt. S.S.Kaushik, APP for the Respondent-State.

P.S.I. Jadhav M.B., M.I.D.C. Police Station present.

CORAM : A.S.GADKARI, J.

DATE : 25th January, 2016

P.C.

1) The applicant is seeking bail in CR No. 672/2014, dated 17.12.2014 registered with MIDC Police Station, Mumbai for the offences punishable under sections 452, 342, 376, 506 of IPC and under section 4 of the Protection of Children from Sexual Offences Act, 2012.

2) As per the FIR, dated 17.12.2014, lodged by the victim girl, approximate date of the incident is four to five days prior to Holi festival of 2014. It is alleged that the applicant has committed the act as contemplated under section 376 of the IPC. In the FIR itself the complainant has stated that due to the said act of the applicant, she was pregnant and when she confided the said fact with her aunt, she was taken for medical examination, wherein it was revealed that the complainant was pregnant. In the premise the FIR is lodged. That after completion of investigation, the charge-sheet has now

been filed.

3) The learned counsel for the applicant submitted that the applicant had raised the plea of juvenility before the Trial Court. However, the Trial Court did not record any finding on the same . He submitted that the date of incident is four to five days prior to the Holi festival of 2014. That the date of birth of the applicant is 12.9.1997 and, therefore, in the month of March, 2014 the applicant was below the age of 18 years. A School Leaving Certificate is annexed at page 59 to the present application. After taking into consideration the said fact, this Court by its order dated 30.10.2015 had directed the Investigating Officer to verify the birth certificate annexed by the applicant. Today, the Investigating Officer has submitted a report stating that the said school leaving certificate issued by the Junior High School Examination, Janpad–Jaunpur, run by Baba Mahaldas Shikshan Sanstha, Mubarakpur, District Jaunpur (State of U.P.) is genuine one.

4) It is to be noted here that no ossification test of the applicant is carried to give the scientific support to his claim. As per the submission of the learned counsel for the applicant though the claim of the juvenility was raised before the Trial Court by the applicant, the Trial Court did not record any finding on the same.

5) After taking into consideration the aforesaid facts, I am of the opinion that it is necessary to direct the Trial Court to conduct an enquiry as contemplated under section 7-A of the Juvenile Justice (Care and Protection) Act, 2000 and to decide the bail application of the applicant afresh.

6) In view of the above, the application below Exh.C in Sessions

Case No.82/2015 is restored to the file of the learned Trial Court. The Trial Court is hereby directed to conduct an enquiry as contemplated under section 7-A of the Juvenile Justice (Care and Protection) Act, 2000 and decide the application below Exh.C dated 7.5.2015 afresh, in accordance with law and after giving an opportunity of being heard to the applicant.

7) The present application is disposed of in the aforesaid terms.

(A.S. GADKARI, J.)