

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

CRI. BAIL APPLICATION NO. 1328 OF 2016

Mr. Ajay Dagadu Shinde ... Applicant.

V/s.

The State of Maharashtra ... Respondent.

Mr. Abhaykumar Apte, Advocate for the Applicant.

Mr. S. S. Pednekar, A.P.P. for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 29th JULY, 2016

P.C. :

1 The applicant/accused in Crime No. 38 of 2015 registered with Otur Police Station, Pune for the offences punishable under sections 363, 366A, 376 of the Indian Penal Code and under sections 4, 6, 8, 10 and 12 of Protection of Children From Sexual Offences Act, 2012 by this application under section 439 of the Criminal Procedure Code is praying for releasing him on bail after filing of the chargesheet against him.

2 Heard the learned counsel appearing for the Applicant/accused. He drew my attention to the FIR, supplementary statement of the informant as well as the statement of victim girl and argued that despite staying with the applicant/accused for more than two to two and half

months, the victim girl never attempted to leave the company of the applicant/accused. The learned APP argued that this is a case of statutory rape, as the victim girl was just 16 years and 3 months old. As such, according to the learned APP, as the victim did not attained the consenting age, the offence of rape is made out and therefore, presumption as per the provisions of the Protection of Children from Sexual Offences Act gets attracted.

3 Perused the chargesheet. Informant is mother of the victim girl. She reported the police on 29.07.2015 that her minor daughter went missing from house on 22.07.2015 so also the neighbouring boy i.e. the present applicant. The informant- mother pointed out accusing finger at the present applicant. In her supplementary statement, the informant-mother disclosed the previous statement of the victim and stated that the applicant had committed rape on her minor daughter.

4 From record of investigation, it is seen that the victim girl was traced-out in the company of the present applicant on 03.10.2015 by the police. On that day itself, statement of victim girl came to be recorded. She averred that the applicant had enticed her to leave company of her lawful guardian with allurement of marriage. Statement of the victim girl shows that, thereafter, the couple started residing

in a rented room. Therefore, as per the statement of the victim girl, the applicant had committed forceful sexual intercourse with her.

5 The Investigating Officer has recorded statement of Swati Suryawanshi, daughter-in-law of the landlord of the applicant. Her statement reveals that victim girl used to reside with the present applicant in a tenanted room of their house. Swati Suryawanshi has disclosed that during her stay, the victim girl was found to be in a frightened condition.

6 Be that as it may, now the chargesheet is filed and the trial court will take its own time. Considering this as also the offence alleged against the present applicant, he deserves to be released on bail and therefore, the order :

ORDER

- i. The bail application is allowed.
- ii. The applicant/accused in Crime No. 38 of 2015 registered with Otur Police Station, Pune for the offences punishable under sections 363, 366A, 376 of the Indian Penal Code and under sections 4, 6, 8, 10 and 12 of Protection of Children From Sexual Offence Act, 2012, be released on bail on executing

PR Bond in the sum of Rs. 30,000/- and on furnishing solvent surety in the like amount.

- iii. As a condition of this order, the Applicant should co-operate the trial court in expeditious disposal of the trial pending against him.
- iv. In addition, the Applicant/accused is directed that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade such person from disclosing such facts either to the Court or to any police officer and that applicant shall not tamper with the prosecution evidence in any manner.
- v. The bail application is disposed of accordingly.

(A. M. BADAR, J.)

.....