

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1343 OF 2016

Vijay Shivaji Gund and others	Applicants
V/s.	
The State of Maharashtra	Respondent

Mr. V. M. Thorat i/b Mr. M. V. Thorat Advocate for Applicants.
Mr. R. M. Pethe APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : OCTOBER 15, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicants herein were arrested on 12/02/2016 in crime no. 61 of 2016 registered at Solapur Taluka Police Station for offence punishable under sections 376 (2)H, 376 (2)I, 376 (2)N, 376-D, 354, 366-A, 506, 304 and 201 of the Indian Penal Code and sections, 12, 4, 5-G, 5-L of the Protection of Children from Sexual Offences Act, 2012. Investigation is completed and charge-sheet is filed.

2) It is the case of the prosecution that applicant no. 2 happens to be son of the applicant no. 1. The gist of the prosecution case is that daughter of applicant no. 1 was a good friend of the victim. That he had requested the

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victim to accompany him to Solapur to meet his daughter and on the way he had touched her inappropriately. It is the case of the prosecution that applicant no. 1 had threatened the victim for soliciting sexual favour. He had also ravished the victim who was a minor and was just 14 years old at the time of incident. It is also alleged that applicant no. 2 had also ravished the victim. All these incidents are of the year 2013-2014. According to the prosecution applicant no. 1 had got the victim married to one Ramesh Gaikwad. That soon after the marriage, victim had given birth to a baby boy. Husband of the victim and her in-laws had abandoned her. The new born baby was given into the custody of the parents of the victim who had called upon the applicant at Sangola. Papers of investigation would reveal that new born baby was done to death by abandoning him on the banks of Bhima river and they had caused disappearance of evidence as far as birth of the child is concerned. It is in the year 2016 that the F.I.R. was lodged by the victim girl. It is also alleged that applicant no. 1 had subsequently got her married to another person. Papers of investigation would reveal that victim had been victimized at the hands of the present applicants for more than one year despite the fact that she was almost the age of the daughter of the applicant no. 1.

3) The learned counsel for the applicant submits that there is an inordinate delay in lodging F.I.R. and as on today, except the bare statements of the victim and her family members, there is nothing on record to remotely indicate that present applicants had sexually abused and harassed the victim. In fact, the statement of the victim is more than sufficient to infer the involvement of the present applicants. In a case under section 376 of the Indian Penal Code, the statement of the victim need not be corroborated in all particulars. This is a case where a minor girl was victimized. For economical and social reasons, parents of the victim had not only maintained silence but had cooperated with the present applicant no. 1 to cause disappearance of the evidence. They are also shown as an accused in the present case. The conclusion of the charge-sheet also shows that investigating agency has kept the investigation open for further investigation under section 173 (8) of the Code of Criminal Procedure, 1973.

4) It is in these circumstances, taking into consideration the heinous allegations levelled against the present applicants, they do not deserve to be enlarged on bail. Hence, application being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)