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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1379 OF 2016

Shiva @ Shivsam Guruling
Borikar

.... Applicant

V/s.

The State of Maharashtra

.... Respondent

Mr. Niranjan Mundargi, i/by Vinayak Patil, for the
Applicant.

Mr. Arfan Sait, APP for the Respondent State.

Mr. A. P. Magar, API Sinnar Police Station, District: Nashik.

CORAM : A. M. BADAR, J.

DATE : 15th JULY, 2016.

P.C. :

1. The applicant/accused, arrested in connection with C.R.No.19 of 2016, registered with Sinar Police Station, Nasik, for the offences punishable under Sections 363, 366(a), 342, 354(b) of the Indian Penal Code and under Section 8 of the Protection of Children from Sexual Offences Act, 2012, by this application is seeking bail during pendency of trial.

2. Heard the learned counsel for applicant as well as learned APP.

3. The learned APP argued that the crime in question is serious and there are independent eye witnesses, who stated that the victim girl was in the company of the applicant inside the flat.

4. Perused the chargesheet. The crime in question came to be registered on the basis of report lodged by Asma Shakir Sayyed. The victim is stated to be a minor girl of 14 years of age. She was found missing in the afternoon on 27.1.2016. During search, her mother came to know from her sister-in-law Jarina Sayyed that the victim girl is in the flat of one Nana Cyclewala and has seen her entering in the said flat. Therefore, the informant as well as witnesses rushed to the flat and because of shouting of persons gathered on the spot, the door of that flat was opened. It is the prosecution case that the applicant came out of that flat, so also the victim girl. Perusal of statement of victim girl shows that the applicant had sexually assaulted her thereby attracting penal provisions of section 8 of the Protection of Children from Sexual Offences Act, 2012.

5. Though Section 366A of IPC is applied against present applicant, prima facie there is no evidence to show that the minor was kidnapped compelling her to have illicit intercourse. Now the investigation is over and therefore, pretrial detention of the applicant is not warranted. The application is, therefore, allowed with the following order:-

Order

- I) The Applicant arrested in connection with above offence, be released on bail on his executing P.R. Bond in the sum of Rs.15,000/- and on his furnishing surety in the like amount.
- II) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.
- III) The applicant shall attend the trial scrupulously and shall co-operate the trial Court in expeditious disposal of the case.
- IV) The applicant shall not tamper with the prosecution evidence in any manner.
- V) The applicant shall not indulge in commission of similar offence in future.

[A. M. BADAR, J.]