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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1559 OF 2016

Mahesh G. Mosamkar

..Applicant.

Vs.

The State of Maharashtra

..Respondent

Ms. Bhumika Khandelwal i/b Rishi Bhuta for applicant.

Mr. A.S. Patil APP for State.

CORAM: A.S. GADKARI, J.

DATE : 16th September 2016.

P.C.

1 This is an application under Section 439 of Cr. P.C. for bail in CR No.201 of 2015 registered with Dindoshi Police Station, Mumbai dated 14.4.2015 under Sections 376, 506 of the Indian Penal Code and under Sections 3 and 4 of Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2 Heard the learned counsel for the applicant and the learned APP for the State. I have also perused the entire chargesheet annexed to the present application.

3 The first information report is lodged by Smt. Kavita Chorge, mother of the victim girl on 14.4.2015. With a view to protect the identity of the victim girl and in consonance with the provisions of Section 228(A) of the Indian Penal Code, the detailed narration of facts mentioned in the present application, the first information report and in the statements of the victim girl is hereby avoided. Suffice it to say that on the basis of the first information report lodged by the mother of the victim girl, the present crime is registered against the applicant. After lodgment of first information report, the police have recorded the statement of the victim girl who was aged 16 years at the relevant time. After completion of investigation, police have filed final report in the present crime.

4 It is to be noted here that the bare perusal of the statements of the victim girl would prima facie reveal that the victim girl who was at the relevant time aged about 16 years, was having friendship with the applicant which subsequently blossomed into an affair. The applicant also proposed the victim for marriage upon which she told him to ask about the same to her parents. The applicant thereafter went to the house of the victim girl on or about 14.4.2015 and proposed the victim. That the father of the victim thereafter assaulted the applicant and drove him away. The mother of the victim thereafter lodged the present first information report. It appears from

the record that the victim girl had attained the age of understanding and was capable to understand good and bad things. The applicant was aged about 20 years on the date of alleged offence. The applicant is arrested on 14.4.2015 and since then he is in jail. In view of the peculiar facts of the present case, the applicant has made out a case for his release on bail. Apart from this, the record discloses that there are no antecedents at the discredit of the applicant.

The learned APP expressed an apprehension that if the applicant is released on bail, he may tamper with the evidence and/or threaten the witnesses including the victim girl, as the applicant was/is residing in the same vicinity. The said apprehension can be taken care of by imposing stringent conditions upon the applicant.

5 Hence, the following Order:

(i) The applicant be released on bail in CR No.201 of 2015 registered with Dindoshi Police Station, Mumbai on his furnishing PR bond of Rs.15,000/- with one or two solvent local sureties in the like amount.

(ii) After his release from the jail, the applicant shall attend the Dindoshi Police Station once in month i.e. on every 1st Monday of the said month between 11.00 a.m. to 2.00 p.m.

(iii) After his release from the jail, the applicant shall not enter the jurisdiction of Dindoshi Police Station except for marking his attendance in the police station.

(iv) The applicant shall also attend all dates before the Trial Court.

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

(vi) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

6 Bail Application is allowed in the aforesaid terms.

(A.S. GADKARI,J.)