

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

**CRIMINAL BAIL APPLICATION NO. 1625 OF 2016**

Suresh Ramayya Swami

... **Applicant**

**Versus**

The State of Maharashtra

... **Respondent**

Mr. Anand S. Patil for the Applicant.

Ms. Veera Shinde, APP for the Respondent/State.

**CORAM : SMT. SADHANA S. JADHAV, J.**

**DATE : 20<sup>TH</sup> AUGUST, 2016.**

**P.C. :**

1] This is an application under Section 439 of Code of Criminal Procedure (Cr.P.C.). The applicant herein is arrested on 17.10.2015 in Crime No.199 of 2015 registered with Shivaji Nagar Police Station, Ichalkaranji. The investigation is completed and the charge-sheet is filed. The case is committed to the Court of Sessions and is registered as Sessions Case No.292 of 2015.

2] At the threshold, the learned APP submits that in the present case the charge is framed and witness summons has been

issued. Hence, according to the learned APP, the trial has commenced and therefore, it would not be proper to consider the application for bail under Section 439 of CrPC.

3] It is the case of the prosecution that on 17.10.2015, a Social Worker namely Aruna Bandu Pawar had lodged a FIR at the Police Station alleging therein that she had received several complaints that women in distress are being sexually abused and were being forced to commit sexual intercourse with allurements of magic of shower of wealth by following certain rituals. The victims succumb to the allurements to overcome their difficulties. The social worker had therefore, decided to trap the said persons. On the said information she approached Women Vigilance Committee member Dipa Pujari, Shila Shinde, Geeta Kurundwadkar and also the member of the Women Rights Committee Mr. Gajanan Shirgave. She had informed them that some persons more particularly one Maharaj who offers sexual intercourse with the women by promising them of miraculous change in their financial status. Accordingly, Mr. Shirgave had called the said people to his house. The people whom he had called were Bhimrao

Shinde, Suresh Swami (present applicant) and Hanumant Jagannath Raut. The said persons had visited his house and had narrated him the said story. Thereafter, an information was given to the P.I. of Shivaji Nagar Police Station and prosecution was initiated against the said persons upon verification of the source of information.

4] The learned counsel for the applicant submitted that except the name in the FIR the papers of investigations did not reveal any overt act to the applicant. It is submitted that the investigating agency has not conducted the Test Identification Parade. It is also submitted that victims of the said offences have not specifically named the present applicant except there being a reference to the surname. It is the contention of the learned counsel for the applicant that although there is a reference to the surname Swami, it can not be said that it is the present applicant who was performing the ghastly pooja upon the victim women. As against this learned APP has drawn the attention of this Court to the statement of one of the witness who has specifically stated that she was taken to the house of Maharaj. There were three persons. One of the person was Shantaram Gotad

who was popularly referred as Bapu and another person was Shri Swami. There are similar statements of some other witnesses also.

5] The learned counsel for the applicant submits that the accused Shantaram Gotad had been enlarged on bail by the Sessions Court in January-2016 and, therefore, according to the learned counsel the role attributed to the present applicant is of minimal significance and hence, he deserves to be enlarged on bail. The learned APP has drawn the attention of this Court to the order passed by the Hon'ble Justice Smt.Anuja Prabhudessai, in Criminal Bail Application No.314 of 2016, wherein after arguments were advanced, the application was withdrawn with liberty to file afresh application after evidence of the witnesses recorded or after a period of one year, whichever is earlier. Indeed, the Charge is framed. There is no question of considering an application under Section 439 of CrPC at this stage. It is an offence against the society and almost all witnesses are women. It is clear that the present applicant was member of the racket which was run by Hanmant Raut. It also cannot be said that it was not the applicant who was performing the pooja whose surname is Swami. The application

is also filed in the name of Suresh Swami which clearly indicated that it is his surname. The applicant was not just an abettor but had in fact facilitated the commission of the ghastly offence. The applicant was a link between the victims and the accused Hanumant. Hence, the applicant does not deserve to be enlarged on bail.

6] In view of the above observations and in view of the order passed by the Predecessor Bench in Criminal Bail Application No.314 of 2016, the application deserves to be rejected. Hence, the application being sans merit is rejected.

7] It is made clear that the observations made herein above are prima facie in nature and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial since the observations are restricted to the application under Section 439 of CrPC.

**(SMT. SADHANA S. JADHAV, J.)**