

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1560 OF 2015

Ashok Nivrutti Chavan	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Kuldeep Patil, Adv. i/b. Mr. Prashant Hagare, Adv. for the applicant.

Mr. D.P. Adsul, APP for the State.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 20th January, 2016.

P.C. :

1. This is an application for bail filed by the aforesaid applicant who is facing trial in Sessions Case No.48 of 2015 pending on the file of Addl. Sessions Judge, Baramati for offences punishable under Section 376(1) & 506 of the IPC and under Sections 4 & 12 of the Protection of Children from Sexual Offences Act, 2012.

2. The case of the prosecution in brief is that on 2nd March, 2015 at about 11 a.m. the applicant had committed rape on his niece, who was below 18 years of age. Pursuant to the FIR lodged by the prosecutrix the aforesaid crime was registered. The applicant was arrested on 3rd March, 2015. The investigation had commenced and upon completion of investigation the chargesheet was filed and case being Sessions triable was committed to Addl. Sessions Court,

Baramati, Pune. The applicant had filed an application for bail which has been rejected by the learned Sessions Judge by order dated 22nd July, 2015. Hence the present application.

3. Mr. Patil, the learned counsel for the applicant has submitted that there were no injuries on the person of the prosecutrix. He has further submitted that though the prosecutrix has submitted that she was dragged to the terrace, the panchnama reveals that there is no staircase leading to the terrace. The applicant is falsely implicated and that he is in custody since 3rd March, 2015 and the chargesheet having been filed, hence his presence is no longer required in custody.

4. Mr. Adsul, the learned APP for the State submits that the prosecutrix is a minor girl. Her statement prima facie reveals that the applicant had subjected her to rape and this fact is also corroborated by the medical evidence.

5. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties. The FIR lodged by the prosecutrix prima facie reveals that on 2nd March, 2015 at about 11 am the applicant who is her maternal uncle had dragged

her to the terrace and thereafter gagged her mouth and had forcible sexual intercourse with her. The statement of the prosecution further reveals that the applicant had threatened her not to disclose the incident to anybody and had told her that he would marry her.

6. The statement of the mother of the victim also prima facie reveals that the victim had narrated the said incident to her on the same date. The medical evidence also prima facie corroborates the statement of the victim. The ossification report reveals that the victim was above 15 years and below 18 years, hence a minor within the meaning of Section 2(d) of the Protection of Children from Sexual Offences Act, 2012.

7. Thus, the material on record prima facie indicates that the applicant is involved in committing rape on a minor girl. The offence is of serious nature and the gravity of the offence would itself not entitle the applicant for bail. Furthermore the victim is related to the applicant and if released on bail the possibility of the applicant threatening or influencing the victim and thereby thwarting the course of justice cannot be ruled out.

8. Considering the aforesaid circumstances the applicant is not entitled for bail. Hence the application is dismissed.

(ANUJA PRABHUDESSAI, J.)