IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRI. BAIL APPLICATION NO. 1840 OF 2015

Shivkumar Atmaprasad Thathera … Applicant.

V/s.

The State of Maharashtra … Respondent.

Mr. Satyavrat Joshi, Advocate for the Applicant.
Mrs Veera Shinde, A.P.P. for the Respondent – State.

CORAM : A. M. BADAR, J.
DATE : 18th JULY, 2016

P.C. :

1 Applicant - Shivkumar Atmaprasad Thathera, the accused in Crime No. 95 of 2014 for the offences punishable under sections 363, 366 (A), 376(D), 302, 201 r/w. 34 and 120 (B) of the Indian Penal Code and under sections 4, 6, 8 and 10 of the Protection of Children from Sexual Offences Act, 2012, registered at Pune Railway Police Station, Pune, by this application under section 439 of the Criminal Procedure Code, is praying for releasing him on bail.

2 Heard the learned counsel appearing for the Applicant/accused. In his submission, only evidence available against the present applicant is that of phone calls, allegedly exchanged between the present applicant and co-accused

Santosh as well as Rahul. It is further argued that the applicant is resident of Hubli and he was not present at the time of commission of the offence. The applicant came to be arrested from Hubli.

3 The learned APP opposed the application by contending that the offence is serious. Learned APP, by pointing out statement of witness-Vivek Vinod Tiwari, argued that decease-Rani Singh made a disclosure to this witness that co-accused Rahul had huge money in his bank account and that one Seth from Bangalore, deposits cheques in bank account of Rahul. Learned APP argued that the present applicant is Seth from Bangalore. Learned APP submitted that cell phone no.8553167800 was in possession of the present applicant and from his cell phone number there were incoming calls, miscalls and outgoing calls to co-accused-Santosh and Rahul.

4 Perused the chargesheet. It is the case of the prosecution that accused no.3 Santosh Juggadar kidnapped minor girl-Rani Singh from Wadala, Mumbai and kept her at the flat at Nalasopara Dist.Thane which was in possession of accused no.1-Rahul Barai and accused no.2 Ishan Ali Kureshi. Subsequently, as per the version of the prosecution, victim - Rani Singh came to know about economic offences committed by accused persons. It is also the case of the prosecution that

accused nos. 1 to 3 were sexually exploiting Rani Singh. As Rani Singh came to know about economic offences committed by the accused persons, accused no.3-Santosh Juggadar paid Rs.75,000/- to accused no.1-Rahul and accused no.2- Ishan for committing murder of minor girl-Rani Singh. Thereafter, according to the prosecution case, accused persons committed murder of Rani Singh on 06.05.2014 and put her dead body in a suitcase and that suitcase was abandoned at the Talegaon Railway Station. On detection of the said suitcase and the dead body therein, the concerned PSI registered the crime in question. During the course of the investigation, accused persons came to be arrested.

5 Perusal of the chargesheet as well as the say given by the prosecution goes to show that so far as the present applicant is concerned, allegations are to the effect that he had been continuously in contact with the rest of the accused persons on cell phone no.8553167800. The simcard, consisting this cell phone number, was in mobile handset having IMEI number 358905045599020. During the course of the argument, learned APP points out that this cell phone number and the simcard of this cell number was received by one Abdul Momin Chaudhary from Azam Khan, workman residing at Bangalore but this person is not traceable. It is averred that the present accused was also involved in the economic offences with the co-accused. It is averred that house search of co-

accused-Rahul Barai resulted in seizure of 45 bank passbooks, 33 cheque books and 56 ATM cards.

6 Be that as it may, it is not pointed out as to how the present applicant was involved in murder of Rani Singh, allegedly committed in the flat at Nalasopara, Dist. Thane, which was in possession of co-accused Rahul and Ishan. Statement of Santosh Ashok Gaikwad, Assistant Police Inspector, shows that he suspected that the present applicant may be Rahul Sharma, wanted for the offence committed in some other offence. Nothing is pointed out to show that the present applicant/accused is the co-accused with rest of the accused persons in some other economic offence.

7 Considering this nature of the evidence against the present applicant, his pre-trial detention as such is not warranted and therefore, the following order :

ORDER

i. The bail application is allowed.

ii. The applicant/accused in Crime No. 95 of 2014 for the offences punishable under sections 363, 366 (A), 376(D), 302, 201 r/w. 34 and 120 (B) of the Indian Penal Code and under sections 4, 6, 8 and

10 of the Protection of Children from Sexual Offences Act, 2012, registered at Pune Railway Crime Branch, Pune, be released on bail on executing PR Bond in the sum of Rs. 30,000/- and on furnishing one or more solvent sureties in the like amount.

iii. As a condition of this order, the Applicant should co-operate with the trial court in expeditious disposal of the trial.

iv. In addition, the Applicant/accused is directed that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade such person from disclosing such facts either to the Court or to any police officer and that applicant shall not tamper with the prosecution evidence in any manner.

v. The applicant should not commit any offence of similar nature in future.

vi. The applicant should furnish his residential address to the concerned police station as well as the trial court and shall also inform from time to time the

change, if any, in his residential address to the concerned police station as well as the trial court.

vii. The bail application is disposed of accordingly.

(A. M. BADAR, J.)

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