

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

CRIMINAL BAIL APPLICATION NO. 2017 OF 2016

Dhanaji Appaso Shinde. ... Applicant.

Versus

The State of Maharashtra. ... Respondent.

Mr. D.D. Rananaware, advocate for applicant.

Ms. Veera Shinde, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : NOVEMBER 18, 2016**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 6/7/2015 in Crime No. 101 of 2015 registered at Dahiwadi Police Station. Investigation is completed and charge-sheet is filed against the present applicant under section 376(2)(F)(I)(L) of the

Indian Penal Code and Section 3(A), 4, 5(K) (N) and 6 of the Protection of Children from Sexual Offences Act, 2012.

3 It is the case of the prosecution that on 5/7/2015 Vaishali Balu Shinde lodged a report at the police station alleging therein that she is the mother of two sons and the victim Ms. X. On 4/7/2015 she had been to the house of her brother-in-law Mohan Shinde to see his wife. She and her son Shubham had gone to milch cow. Her son Uday was watching T.V in the house of her brother-in-law. Shubham also joined Uday. After milching cow when she was going to the house, she heard the cries of her daughter Ms. X behind heap of fodder. She rushed to the spot. She actually saw the present applicant ravishing her daughter. She has specifically stated that her daughter is a special child and lacks sense of cognition. The applicant happens to be the cousin paternal uncle of the victim and was fully aware that the victim is special child.

4 The applicant has committed the heinous offence. It is unfortunate that the close relative like the applicant had taken undue advantage of the poor cognition of the victim and had ravished her. It is all the more unfortunate for the mother, who is the eye witness to the incident. The mother has gathered courage to inform the incident to the police without being influenced by any other relatives or relations between the accused and her.

5 The learned APP has submitted that there was DNA testing of the semen of the present applicant, which has matched with the swab of pubic hair of the victim.

6 The offence is punishable with imprisonment for 10 years, but extended to life. In these circumstances, the applicant does not deserve to be enlarged on bail.

7 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 439 of the Code of Criminal Procedure,

1973. The learned Sessions Judge shall not be influenced by the same at the time of trial.

8 Hence, the application being sans merits stands rejected and disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)