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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2346 OF 2015

Smt. Mariyam Imram Shaikh Vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr Neville Deboo i/by A.B.Bhoir, for the applicant.
Smt S.S.Kaushik, APP for the State.
PS.I.Shinde, Trombay PS. present.

CORAM : A.S.GADKARI, J.
DATED : 24th February, 2016

P.C.

1) By the present application under section 439 of Cr.PC., the applicant is seeking bail in CR No.274/2014, dated 9/12/2014 registered with Trombay Police Station, for the offence punishable under section 376 read with sections 34 of the IPC and sections 4, 8, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012.

2) With a view to protect the identity of the victim, detail narration of the facts mentioned in the said report are hereby avoided. Suffice it to say that in pursuance of the FIR lodged by the victim girl the present crime is registered against the applicant and other three accused persons. As per the FIR, the applicant was in

acquaintance with the complainant as they were working together with a caterer. It is the case of the prosecution that the applicant and Smt. Munni Iqbal Shaikh (accused no.4) lured the victim girl and enticed her to have sexual intercourse with the accused no.1 Pravin Mhatre. It is further the prosecution case that the present applicant also instigated the complainant to have physical relationship with the said accused no.1 Pravin Mhatre. Subsequently, the accused Imran came in contact with the victim girl and because of physical relations with him, she was pregnant. When the complainant was pregnant, she lodged the FIR dated 9/12/2014. After completion of the investigation, the charge-sheet is filed.

3) The learned counsel for the applicant submitted that the accused no.1 Pravin Mhatre has been released on bail by this Court by its order dated 20.1.2016 and the role attributed to the present applicant of instigation is much lesser than that of Pravin Mhatre. It may be noted here that the accused no.1 has been released on bail by this Court on the ground that his identity is not established by the prosecuting agency and there was ambiguity about the same.

4) Be that as it may, after taking into consideration the allegations made against the applicant that she was instrumental in

instigating the complainant in having physical relationship with one “Mhatre uncle”, no other act has been attributed to the present applicant. The papers pertaining to the investigation further disclose after the complainant came in contact with accused no.2, Imran she had physical relationship with the said accused and due to which she was pregnant. The complainant was thereafter sent to Remand Home and the DNA examination of the foetus was carried out by the prosecuting agency. The DNA report matches with the profile of Imran and as per the allegation made in the FIR Imram is the person who had physical relationship with the complainant. As stated earlier, the role attributed to the present applicant is that she instigated the complainant to have physical relationship with the co-accused namely Pravin Mhatre. After taking into consideration, the evidence available on record and the facts stated herein above, I am of the opinion that the applicant has made out a case for her release on bail.

5) Hence, the following order :

ORDER:-

(a) The applicant shall be released on bail in CR No. 274/2014 registered with Trombay Police Station, Mumbai on his furnishing a PR. bond of Rs.25,000/- with one or two solvent local sureties in the like amount;

- (b) After her release from jail, the applicant shall not enter or visit the vicinity where the victim girl resides;
- (c) The applicant shall attend the trial Court on every first and third Monday of the month between 11:00 a.m. to 1:00 p.m;
- (d) The applicant shall not tamper with the evidence and/or influence the witnesses;
- (e) The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)