

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2423 OF 2015

Pavan Vindokumar Dubey

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Ram Pandey for the Applicant

Mrs.P.P. Shinde, APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **MARCH 7, 2016**

P.C.:

1. This application is moved for bail. The applicant-accused is facing charges under section 363, 376(i)(n), 506 of the Indian Penal Code and also under sections 3 and 4 of the Prevention of Children from Sexual Offences Act, 2012 in C.R. No.I-199/2015 registered by Boisar police station. The offence is registered at the instance of one Ramdulare Ramdhaari Yadav, the father of the victim on 25.9.2015. It is the case of the prosecution that the prosecutrix, who was 16 years old, left her house on 23.9.2015 at 8pm to see Ganpati decorations during the Ganpati festival. At that time, she met the applicant-accused. She knew him. He told her that they should go to Boisar to see more Ganpati decorations and so she went with him. On that night, he took her to Vapi in Gujarat where he kept her in one room of his friend one Dilip for two days. Then he had

sexual intercourse with her for 3 to 4 times. Then on 25.9.2015, she returned home. In the meantime, on 24.9.2015, her father had registered a missing person complaint. Thereafter, a regular FIR was lodged against the applicant-accused after the girl returned home and she gave the details of the sexual assault. Pursuant to this FIR, the applicant-accused was arrested on 28.9.2015 and he is in prison since then. Hence, this bail application.

2. The learned Counsel for the applicant submitted that the applicant-accused is 21 years old and the girl is 16 years old. The applicant has not committed any offence. He has no criminal antecedents. He is earning his livelihood by running a paan shop. In support of his submissions, he relied on the judgment of this Court in the case of **Sunil Mahadev Patil vs. The State of Maharashtra**¹.

3. Learned Assistant Public Prosecutor while opposing this application, submitted that the victim was 16 years old at the time of the incident. She relied on the medical certificate of the victim which was issued after her examination. She pointed out that her hymen was ruptured as the prosecutrix was out for two days alongwith the accused.

1 Bail application No.1036 of 2015 decided on 3.8.2015

4. It appears that it is a case of the girl going with the boy on her own and thereafter both the applicant-accused and the victim got involved into sexual relationship. It is true that the victim was a minor at the relevant time and she was 16 years old. From her statement, it is difficult to believe that she alone went to see Ganpati decorations on that night. The age of the boy is 21 years. He does not have criminal antecedents. He is in prison since last five months. I rely on the case of **Sunil Mahadev Patil (supra)** and grant bail to the applicant-accused on the following terms and conditions:

- i) The applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/- with one or two solvent sureties in the like amount;
- ii) The applicant-accused shall not tamper with the evidence or pressurise the prosecutrix, the complainant or her family members;
- iii) The applicant-accused shall not indulge into any criminal activity and shall attend on all the Court dates;
- iv) The applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address.

v) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

5. Bail application is disposed of accordingly.

(MRIDULA BHATKAR, J.)