

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 323 OF 2017

1. Rahimkhan Pathan s/o Maheboob
Khan Pathan,
Age: 78 years, Occu: Nil,
R/o Ada, Tal. Kaij,
District Beed
 2. Kulsumbi Musakhan Pathan,
Age: 50 years, Occu: Household,
R/o as above
- ..APPLICANTS

VERSUS

The State of Maharashtra,
Through Police Inspector,
Police Station, Dharur,
Tal. Dharur, Dist. Beed

..RESPONDENT

Mr S. S. Thombre, Advocate for applicants;
Mr S. M. Ganachari, Addl. Public Prosecutor for respondent

CORAM : N. W. SAMBRE, J.

DATE : 2nd February, 2017

ORAL ORDER

By this application under Section 438 of the Code of Criminal Procedure, the applicants seek their release on bail in connection with C.R. No. 212 of 2016, registered with police station, Dharur, Tq. Dharur, Dist. Beed, for offences punishable under Sections 354, 354-B, 376 (2) (i), 323, 504 read with Section 34 of the Indian Penal Code and Sections 4, 3, 5 and 6 of the Protection of Children from Sexual Offences Act.

(2)

2. At the outset, learned Counsel appearing on behalf of applicants, upon instructions, seek leave to withdraw the present application to the extent of applicant No.2 Kulsumbi Musakhan Pathan. Leave granted. Criminal Application, to the extent of applicant No.2 stands dismissed as withdrawn.

3. So far as applicant No.1 – Rahimkhan Pathan s/o Maheboob khan Pathan is concerned, he is 78 years old. The incident is alleged to have taken place between 31st August, 2015 and 31st August, 2016, for which first information report came to be lodged on 16th December, 2016.

4. The main accused Maheboob is grand child of present applicant No.1, who claimed to have married to complainant Heena.

5. Perused the contents of the first information report and other material available on record. There is hardly any material on record so as to infer active participation of applicant No.1 in commission of the crime in question.

6. Having regard to the age of applicant No.1 and role attributed to him in commission of the crime in question, in my opinion, he deserves to be granted pre-arrest bail. Hence, following order:-

Criminal Application, to the extent of applicant No.2 stands dismissed as withdrawn.

(3)

In the event of arrest of applicant No.1 – Rahimkhan Pathan s/o Maheboob Khan Pathan, in connection with C.R. No. 212 of 2016, registered with police station, Dharur, Tq. Dharur, Dist. Beed, for offences punishable under Sections 354, 354-B, 376 (2) (i), 323, 504 read with Section 34 of the Indian Penal Code and Sections 4, 3, 5 and 6 of the Protection of Children from Sexual Offences Act, he be released on bail, on furnishing P.R. Bond of Rs.15,000/- with one or two sureties for the like amount.

Applicant No.1 shall attend the Investigating Officer on 9th and 10th February, 2017, between 10.00 a.m. and 12.00 noon and thereafter as and when called.

Applicant No.1 shall not take any steps to influence the prosecution witnesses or tamper with evidence.

Criminal Application stands disposed of accordingly.

(N. W. SAMBRE, J.)

amj