

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

CRIMINAL APPLICATION NO. 1268 OF 2017

Deepak Prakash Bairagi .. Applicant
Age. 32 years, Occ. Labour,
R/o. Rampeth, Near Marimata Temple,
Warangaon, Tq. Bhusawal,
Dist. Jalgaon.

Versus

The State of Maharashtra .. Respondent

Mr.A.R. Syed, Advocate for the applicant.
Mr.A.R. Borulkar, A.P.P. for respondent/State.

**CORAM : T.V. NALWADE, J.
DATED : 17.04.2017**

P.C. :-

1. This application is filed for bail. Both the sides are heard. The papers of investigation were made available for perusal.

2. The crime is registered at C.R. No.137 of 2016 in Ramanand Police Station, Dist.Jalgaon, for the offences punishable under sections 376(2) (I) (J), 354A(1)(i), 506 of the Indian Penal Code and sections 3(B), 4,6,7,8 and 12 of the Protection of Children from Sexual Offences Act. It is case of the complainant that

one month prior to the date of the report, when she was present outside the house and present applicant was present inside the house, she heard shouts of the victim girl and so she went inside. The applicant was servant of the family of the complainant. She noticed that present applicant was moving his finger in the private part of the victim girl. She became angry. The applicant left the house after giving threat to the complainant. It is contention of the complainant that she disclosed the incident to her husband and mother-in-law, but to avoid defamation, they avoided to give report. It is her case that at the time of passing urine, the victim girl used to cry.

3. It is case of the complainant that there was some dispute between her and husband and during enquiry, which was done at the Redressal Forum on 10.11.2016, she disclosed the incident to the Members of the Redressal Committee. It is her case that they advised her to take the victim girl to the Doctor. After examination of the victim girl, the Doctor said that there was injury to private part of the victim girl and then the complainant decided to give report.

4. This Court has seen the medical report. This Court is avoiding to discuss the medical record. The

victim girl is about three years old and there was no question of recording her statement and every aspect of the matter will be on the basis of aforesaid material and the version of the mother of the victim girl. After about one month of the aforesaid incident, the report was given and it is not her contention that after the incident witnessed by her, which was prior to one month of filing of the report, there was any opportunity to the applicant to do anything. All these things need to be kept in mind. The applicant has been behind the bar since 11.11.2016. Though the crime is registered for the aforesaid offence, in view of the nature of the material, this Court holds that it is not desirable to keep the applicant behind the bar till disposal of the case, which is filed against him.

i. In the result, the application is allowed.

ii. The applicant — Deepak Prakash Bairagi be released on bail, in connection with Crime No.137 of 2016, registered with Ramanand Police Station, Dist. Jalgaon, for the offences punishable under section 376(2), (I), (J), 354A(1)(i), 506 of the Indian Penal Code and sections 3(B), 4,6,7,8 and 12 of the Protection of Children from Sexual Offences Act, on his furnishing PR & SB of Rs.50,000/- (Rupees Fifty Thousand) with one

solvent surety in like amount.

iii. The applicant is not to tamper the prosecution witnesses and he is not to commit similar offence.

iv. The applicant is not to enter Jalgaon city, except for attending the case, which is filed against him, till disposal of the case.

[T.V. NALAWADE, J.]