

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

Criminal Application No. 01348 of 2017

District : Nandurbar

Suresh Hurji Walvi,
Age : 35 years,
Occupation : Labour,
R/o. Mandavi Amba,
Taluka Akkalkuwa,
District Nandurbar.

.. Applicant.

versus

The State of Maharashtra.

.. Non-applicant.

.....

Mr. Amit S. Savale, Advocate, for the applicant.

*Mr. R.V. Dasalkar, Addl. Public Prosecutor, for
the non-applicant.*

.....

CORAM : T.V. NALAWADE, J.

DATE : 30TH MARCH 2017

ORAL ORDER :

By the present application, the applicant -
accused seeks his release on bail in connection with
Crime No. 114/2016 registered with Taloda Police
Station, District Nandurbar, for offence punishable
under Sections 363, 366A, 376(1), 504, 506, read with
Section 34 of the Indian Penal Code and under Section
04 of the Protection of Children From Sexual Offences
Act.

02. Both the sides are heard.

03. The crime is registered on the basis of report given by the prosecutrix, who has given her age as 15 years and 03 months. There is school record in respect of her claim that her age is 15 years and there is record of medical examination. The prosecutrix was known to the present applicant and his wife.

04. The incident took place on 09.11.2016. On that day, present applicant and his wife went to the house of the prosecutrix at about 12.00 noon when her mother was not at home. They invited the prosecutrix to come with them to village Itchagavan, where there was some function in front of temple of one Goddess. Allegations are made that when motorcycle reached near Shirve village, wife of the present applicant got down and she said that she would follow them and they should go ahead. From there, the applicant took the prosecutrix to the house of one Devidas, resident of Pimpripada, and it was about 08.00 p.m. Allegation is made that in the house of said Devidas, present applicant committed sexual intercourse with her by coercion, at about 11.00 p.m. by giving threat to her. On 10.11.2016, the applicant left Pimpripada and after handing over Rs.50/- to the prosecutrix, he left her in the vicinity of Pimpripada. She somehow returned to her house at village Mandvi Amba and disclosed the incident to her parents and grandmother. Initially, to avoid trouble in future,

as nobody would marry with the prosecutrix after learning such incident, they had taken decision not to approach Police. But subsequently villagers convinced them that such incident need to be reported. Then they approached Police and report was given on 11.11.2016. The crime came to be registered for offences punishable under Sections 363, 366A, 376(1), 504, 506 read with Section 34 of the Indian Penal Code and under Section 04 of the Protection of Children From Sexual Offences Act. The crime is registered against the applicant, his wife and said Devidas.

05. This Court has carefully gone through the record of medical examination of the prosecutrix.

06. The submissions made and the record does not show that there was any reason for the prosecutrix to falsely implicate the applicant in such heinous crime. The applicant is a married man aged about 35 years and this circumstance cannot be ignored. It can be said that the present applicant misused the circumstances and the tender age of the prosecutrix. The conduct of the applicant in giving Rs. 50/- to the prosecutrix when the incident was over, speaks loud about his intentions and approach. There is clear possibility of misusing the liberty, if he is released on bail and he may tamper the prosecution witnesses. Therefore, this Court holds that this is not a fit case to grant bail to the applicant.

07. In the result, the Application is rejected.

08. Neeless to mention, that the observations made in this order are prima facie in nature which shall have no bearing on trial of the case, if any, against the applicant.

(T.V. Nalawade)
JUDGE

.....