

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

913 CRIMINAL APPLICATION NO. 1381 OF 2017
WITH APPLN/6564/2016 WITH APPLN/6921/2016 WITH
APPLN/1862/2017 IN APPLN/6564/2016 WITH APPLN/1863/2017
IN APPLN/6921/2016

AHEMED KHAN S/O. AMIN KHAN
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Patel Shaikh Ashpak Taher

APP for Respondent/State : Mr. S.M. Ganachari

Advocate for Assist to APP : Mrs. Poonam V. Bodkhe

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CORAM : T.V. NALAWADE, J.

DATED : April 18, 2017.

ORDER :

1. Criminal Application No. 1381/2017 is filed for bail. Both the sides are heard. This Court has perused the papers of investigation. A statement was made by the learned counsel for the applicant that this is the first application filed for bail by the applicant in this Court. Learned counsel Smt. P.V. Bodkhe was allowed to assist the learned APP.

2. The crime is registered on the basis of report given by grandmother on maternal side of the victim girl. The age of the victim girl at the relevant time was around 8 years and the present applicant was working as a teacher in her school. The incident was disclosed to grandmother by the victim girl when

grandmother insisted to disclose as to why the victim girl was not feeling well even when she was taken to one hospital on 20.8.2016 by her mother. On inquiry, the victim girl disclosed some part of the incident and after that, the victim girl was taken to school by the grandmother and when the teachers were shown, she identified the present applicant, who had done that act. During the course of investigation, many statements of the victim girl were recorded and one statement was recorded by J.M.F.C. under section 164 of Cr.P.C. She has blamed the present applicant every time, though in statement under section 164 of Cr.P.C. entire incident was not disclosed. The record and medical examination shows that she was examined on 24.8.2016 and some injury was found on her private part which was fresh tear of hymen. She has not only blamed the present applicant, but also one more teacher and one rickshaw driver.

3. The learned counsel for the applicant submitted that the girl could have been tutored and out of political rivalry and interest shown by one M.L.A., the applicant is falsely implicated. This submission cannot be considered at this stage. For commission of the offence of rape, it is not necessary that there should be complete penetration and there should be tear of hymen. Though in the present matter, there is tear of hymen

and though tear is noticed as fresh, this circumstance cannot be considered or appreciated in view of other material available against the present applicant. The allegations of heinous crime are made against the present applicant, who is a teacher and at present, there is virtually no reason for suggesting that the accused is falsely implicated. The circumstance that other accused are released on bail cannot be used in favour of the present applicant as the incident was allegedly started by the present applicant and others got involved subsequently. In the result, Criminal Application No. 1381/2017 is rejected. The observations are for the present purpose only.

4. Other applications will be heard on 28.4.2017.

[T.V. NALAWADE, J.]

SSC/