

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

CRIMINAL APPLICATION NO. 1640 OF 2017

Santosh s/o. Godaji Bahulikar .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.S.C. Bhosle, Advocate for the applicant.

Mr.A.R. Borulkar, A.P.P. for respondent/State.

CORAM : T.V. NALAWADE, J.

DATED : 12.04.2017

P.C. :-

1. This application is filed for bail. Both sides are heard. Papers of investigation were made available by learned A.P.P. to this Court for perusal.

2. The crime is registered on the basis of report given by the victim girl, then aged about 14 years. The father of the victim girl had deserted her mother and due to that for some time, the victim girl/prosecutrix was living with her grand-mother. After that the mother of the prosecutrix came in contact with present applicant and they started living together as husband and wife. They were living this way for about seven years. When grand-mother of the prosecutrix shifted to the house of her mother, she started living there.

3. As per the version of the prosecutrix, the first incident of rape took place about one year prior to the date of the report, when she was aged about 13 years. She made allegations that when they had gone for cutting sugarcane, work as labour in the field, first time present applicant had raped her and he had given threat that he would finish her mother. As the applicant and mother of the prosecutrix were living together, she did not disclose the incident. The applicant misused that circumstance and many times he physically used her and he made her to take contraceptive pills. On one occasion the mother of the prosecutrix herself noticed that the applicant was sleeping with the prosecutrix and then the things became clear. The prosecutrix then disclosed everything to her mother and then they approached the police and the report came to be given on 20.07.2016. The crime is registered for offences punishable under sections 376(2)(F)(I)(N) of the Indian Penal Code and section 4 of the Protection of Children from Sexual Offences Act, 2012.

4. This Court has perused the statement of the mother of the prosecutrix and also medical report, which are consistent with the version given by the prosecutrix.

5. It can be said that the prosecutrix was just like a daughter to the present applicant, but he behaved with her in the aforesaid manner. Such person does not deserve any lenient view and discretionary power cannot be used in favour of the present applicant. Considering the fact that the prosecutrix has no shelter and even the mother of the prosecutrix was depending upon the applicant, there is clear possibility of tampering of witnesses. In view of the aforesaid circumstances, this Court holds that bail cannot be granted to the present applicant.

6. The Criminal Application is rejected. The Trial Court is directed to dispose of the case within six months from the date of this order.

[T.V. NALAWADE, J.]