

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

CRIMINAL APPLICATION NO. 1675 OF 2017

Mukesh @ Siddharth Eknath Wagh .. Applicant
Age. 25 years, Occ. Labour,
R/o. Boudha Wada, Karwand, Tq. Shirpur,
Dist. Dhule.

Versus

The State of Maharashtra .. Respondent

Mr.N.R. Suryawanshi, Advocate for the applicant.
Mr.R.V. Dasalkar, 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. Learned Counsel for the applicant made statement that this is the first application filed for bail in this Court. Papers of investigations were made available by the learned A.P.P. for perusal of this Court.

2. The crime is registered on the basis of report given by mother of the victim girl. The age of the victim girl is 4 years. In one incident which took place on 09.11.2016, when the victim girl was playing with another child, she started crying, as the said child had kissed her. On enquiry she disclosed that present applicant was also doing similar things and was playing with her by

removing her clothes. She also disclosed that when the complaint was out of station, such things were done by the present applicant. The report was given on 10.11.2016 against the present applicant and charge-sheet is filed for the offences punishable under section 376(i) (n) of the Indian Penal Code and sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.

3. It appears that police recorded statement of the victim girl also and she disclosed about the incident in the way it was disclosed to the mother. It can be said that she does not understand the nature of the sexual offence. On the other hand, copy of case filed against mother-in-law and other relatives of the complainant is produced on record. It shows that in the case, which was filed in April, 2013 for the offences punishable under sections 324, 323, 504, 506 read with 34 of the Indian Penal Code, the present applicant was shown as witness. The learned Counsel for the applicant submitted that when the applicant was used as witness against the family of the complainant in the past, it was not possible that the applicant had kept any relations with the family of the complainant.

4. Considering the age of the victim girl, which is hardly four years and as the observation can be made in

both ways as there cannot be corroboration to such version of child aged about four years even of medical report, this Court holds that it is not desirable to keep the applicant behind the bar till disposal of the case filed against him. The applicant has been behind the bar since 10.11.2016.

i. In the result, the application is allowed.

ii. The applicant – Mukesh @ Siddharth Eknath Wagh be released on bail, in connection with Crime No.285 of 2016, registered with Shirpur Police Station, Dist. Dhule, for the offences punishable under sections 376(i) (n) of the Indian Penal Code and under section 4 & 6 of the Protection of Children from Sexual Offences Act, 2012, on his furnishing PR & SB of Rs.30,000/- (Rupees Thirty Thousand) with one solvent surety in like amount. The applicant is not to tamper the prosecution witnesses and he is not commit similar offence.

iii. The applicant is not to enter Shirpur city till the disposal of the case, which is filed against him.

[T.V. NALAWADE, J.]