

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

CRIMINAL REVISION APPLICATION NO. 278 OF 2016

Suklal s/o. Kedar Barela,
Age 17 years, Occu. Nil,
Through his father & legal guardian
Kedar s/o. Vesta Barela,
Age 40 years, Occu. Labour,
R/o. Rajwad, Taluka Parola,
District Jalgaon.

....Applicant.

Versus

The State of Maharashtra

....Respondent.

Mr. K.C. Sant, Advocate for applicant.

Mr. K.D. Mundhe, APP for State/respondent.

CORAM : T.V. NALAWADE, J.

DATED : 23rd January, 2017.

ORAL JUDGMENT :

1) Revision is admitted. Notice after admission is made returnable forthwith. By consent, heard both the sides for final disposal.

2) The proceeding is filed against the order made by the learned Additional Sessions Judge, Jalgaon in Criminal Appeal No. 135/2016. The appeal was filed under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 against the order made by Principle Judge, Juvenile Justice Board, Jalgaon on application which was filed for bail. The case is going

on against the petitioner before the Juvenile Justice Board, Jalgaon for offences punishable under sections 376, 363, 366(A) of Indian Penal Code and under sections 4, 8, 12 of the Prevention of Children from Sexual Offences Act, 2012.

3) It appears that at the relevant time, present petitioner was juvenile. He was aged about 17 years and the prosecutrix was aged about 14 years. The record of evidence is produced to show that prosecutrix has turned hostile. The learned APP took this Court through the medical evidence showing that there may be something in medical evidence to indicate that the prosecutrix has turned hostile and now she is not telling the truth.

4) When the material evidence is already recorded, the bail is refused by observing that there is possibility of tampering with the prosecution witnesses. It appears that the prosecutrix has accepted the suggestion given to her during her cross examination for prosecution that there is settlement between the parties. It appears that parties are relatives of each other.

5) In view of the aforesaid circumstances, this Court holds that bail ought to have been granted to the present

petitioner, who has now completed 18 years of age and there are aforesaid circumstances.

5) So, the proceeding is allowed. The order made by the learned Judge of Juvenile Justice Board, Jalgaon on bail application of petitioner is hereby set aside. Similarly, the decision of Criminal Appeal decided by the Sessions Court, Jalgaon is hereby set aside. The application filed for bail is allowed. The petitioner is to be released on bail on his furnishing PR and SB of Rs. 25,000/-.

[T.V. NALAWADE, J.]

ssc/