

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 10 OF 2017

1. Rajendra Kacharu Pawar		
2. Navnath Shilas Barde		
3. Namdev Vishnu Kokate	...	Applicants
Vs.		
The State of Maharashtra	...	Respondent

Mr. Santosh R. Vishwakarma, Advocate for the applicants.

Mr. Y.M. Nakhwa, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **6th January, 2017.**

P.C.:

This Application is moved by the applicants/accused for bail, as they are facing prosecution for the offences punishable under sections 323, 324, 506 r/w. 34 of the Indian Penal Code and under section 4 and 14(2) of the Protection of Children from Sexual Offences Act, 2012 in C.R. No. 211 of 2016 with Vadivarhe Police Station. The complaint was registered at the instance of the complainant who is 15 years old boy and resident of Pimpalgaon Dukara, District Nashik.

2. On 29th September, 2016 at around 5.30 p.m., when the complainant was passing by the temple, applicant No. 1 called him and took him behind the temple; he asked him to take out his trousers and made him to sit on a stick which was in a erected position. The complainant was threatened to sit on the point of the stick, so it was very painful for him and he started crying. Applicant No. 1 pushed that stick into the buttocks and

applicant nos. 2 and 3 did video shooting of the actions of the complainant. Thereafter they let him to go. The complainant went home and as there was pain in the private part, he complained about the same to his father and thereafter the father approached the police station and the boy gave complaint to the police. The offence was registered against the applicants-accused and applicant No. 1 was arrested on 30th September, 2016 and applicant nos. 2 and 3 were arrested on 3rd October, 2016. Hence this Bail Application.

3. The learned counsel for the applicants-accused has submitted that applicant No. 1 is a Government servant. All the applicants-accused are married. They do not have any criminal record. He prays that the applicants-accused are to be released on bail.

4. Learned APP argued that the boy is mentally challenged and minor. He submitted that considering the role of applicant No. 1, he is not to be granted bail. Learned APP relied on the statement of witness Tanaji Hiranman Zankar recorded on 2nd October, 2016 and submitted that the accused persons have circulated the said video clips to the villagers for entertainment.

5. The offence committed and the acts described in the complaint are perverse. Applicant No. 1 has played the main role in calling the boy,

asking him to take out the trouser and making him to sit at the point of the stick. It shows a bad taste of entertainment of the applicants-accused. The video clip of the said incident was also circulated to the villagers just to make the fun of the boy. However, all these applicants are in prison since last three months and they do not have any criminal record. The incident has occurred only out of their perverse mentality of having fun. I, therefore, grant bail to the applicants/accused on the following terms and conditions:

ORDER

- (i) Application is allowed.
- (ii) Applicant No. 1 be enlarged on bail on furnishing P.R. Bond in a sum of Rs.40,000/- with one or two sureties in the like amount.
- (iii) Applicant Nos. 2 and 3 be enlarged on bail on furnishing P.R. Bond in a sum of Rs.30,000/- each with one or two sureties in the like amount
- (iv) The applicants shall not contact, harass or threaten the complainant and his family members in any manner.
- (v) The applicants shall attend all the Court dates.
- (vi) The applicants shall not abscond or leave India without prior permission of the Court and furnish their permanent address to the Investigating Officer alongwith documentary proof of their address;
- (vii) In the event of breach of any of the above conditions, the

prosecution will be at liberty to move the Sessions Court for cancellation of bail.

6. The Application for bail stands disposed of on above terms.

(MRIDULA BHATKAR, J.)