

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 30 OF 2017

Swastik Rohidas Rawte	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Aniket Nikam i/b. Mr, Aashish Satpute, Advocate for the applicant.
Mr. Rajan Salvi, APP for the State.
Ms. Shital P. Chavan, P.S.I., Junnar Police Station, Pune present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **9th January, 2017.**

P.C.:

This Application is moved for bail, as the applicant/accused is prosecuted for the offence punishable under sections 363, 366 and 376(2) (n) of the Indian Penal Code and under section 4, 8 and 12 of Prevention of Children from Sexual Offences Act in C.R. No. 155 of 2016 with Junnar Police Station. The mother of the prosecutrix is the first informant.

2. It is the case of the prosecution that the prosecutrix was 17 years old at the time of incident which took place on 12th August, 2016. The prosecutrix had completed 10th Standard and was studying in College. On 13th August, 2016 in the morning, the mother did not find her daughter in the house and after taking search when she was not found, a missing complaint was given to the police. So, the offence was initially registered on 17th August, 2016 under section 363 of Indian Penal Code.

3. It is the case of the prosecutrix that she was having love affair with applicant/accused 4 years prior to 2016. On 12th August, 2016 at around 4.30 p.m. applicant/accused told her that they both would marry and therefore, he took her to a house which was on hillock. They stayed there from 12th August, 2016 to 17th August, 2016. At that time, the applicant/accused had sexual intercourse with the victim. On 18th August, 2016, the applicant dropped the victim near the house of her maternal uncle. On that day she did not disclosed the fact to her maternal uncle. On 22nd August, 2016, she told her mother that she went with applicant-accused and stayed with him for four days. Hence, Section 376(2)(n) was added. The applicant-accused was taken in custody on 23rd August, 2016. Hence, this Bail Application.

4. The learned counsel for the applicant-accused has submitted that the girl was 17 years old at the time of incident and she herself ran away with the applicant-accused. The applicant-accused has no criminal antecedents.

5. Learned APP opposed the Bail Application and submitted that the girl was minor at the time of incident and he is prosecuted for the offence under section 376(2)(n) where minimum punishment of 10 years is prescribed under Indian Penal Code. He submitted that charge sheet is filed.

6. Perused the complaint and the statements of the witnesses. Perused school leaving certificate of the victim, which disclosed the date of birth of the victim as 19th June, 1999. The incident of kidnapping and rape has taken place between 12th August, 2016 and 16th August, 2016 which shows that the victim has completed 17 years of her age. She was mature enough to understand the consequences of her acts. The applicant-accused is in prison since 23rd August, 2016. The applicant-accused does not have any criminal antecedents. Hence, I am inclined to grant bail to applicant/accused on the following terms and conditions:

ORDER

- (i) The applicant 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;
- (ii) The applicant shall not contact, threaten or harass the victim or her family members;
- (iii) The applicant shall not jump the bail;
- (iv) The applicant shall attend all the Court dates;
- (v) The applicant shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address;
- (vi) In the event of breach of any of the above conditions, the

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

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

(MRIDULA BHATKAR, J.)