

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 360 OF 2017

Swapnil Anandrao Patil	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Kuldeep S. Patil, Advocate for the applicant.

Mr. S.H. Yadav, APP for the State.

Mr. Anwar Shaikh, Head Constable, Tasgaon Police Station, Sangli present.

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

DATE: **13th February, 2017.**

P.C.:

This Application is moved by the applicant/accused for bail under section 439 of Cr. P.C., as he is facing prosecution for the offences punishable under sections 354A(4), 506 of the Indian Penal Code, under section 67B of Information Technology Act and under sections 11 and 12 of Prevention of Children from Sexual Offences Act in C.R. No. 470 of 2016 registered with Tasgaon Police Station, District Sangli.

2. It is the case of the prosecutrix that the incident has taken place on 16th November, 2016 and 22nd November, 2016. At the time of incident she was 14 years old studying in 9th Std. The applicant/accused was her English teacher. On 16th November, 2016 the applicant/accused asked the students to prepare project and when the students were working on it in a class, he called the prosecutrix in a computer room and showed her phono

pictures and films and also suggested sexual favour. By hearing this, she ran away, at that time, the applicant/accused threatened her to defame her. Again on 22nd November, 2016, the applicant/accused again suggested sexual favours and thereafter the girl went home and narrated the entire incident to her cousin. They went to the police and offence was registered against the applicant/accused. The applicant/accused was arrested on 23rd November, 2016. Hence, this Bail Application.

3. The learned counsel for the applicant/accused has submitted that this the first offence of the applicant/accused. The applicant/accused is married. He is suspended from the school. He further submitted that Section 354A is bailable. Section 67B cannot be attracted and Section 11 of causing sexual harassment to child where punishment is upto 3 years and is bailable. He submitted that section which is non-bailable is section 67(B) of Information Technology Act.

4. Learned APP opposed the Application and submitted that the applicant/accused was a teacher and therefore he is not to be released on bail.

5. Perused the FIR and the statement of the girl under section 164. *Prima facie* it shows that the applicant/accused has suggested sexual

favours and exhibited photo pictures and films to the girl. However, as submitted by the learned counsel, considering the nature of offence and the allegations made, Section 67B may not be attracted, as the section requires transmission and publication of phonographic material. Section 354A is bailable and Section 11 of POSCO Act is also bailable. The applicant/accused is suspended from the school. Hence, I am inclined to grant bail to the applicant/accused on the following terms and conditions:

ORDER

- (i) Application is allowed.
- (ii) The applicant/accused be enlarged on bail on furnishing P.R. Bond in a sum of Rs.30,000/- with one or two sureties in the like amount;
- (iii) The applicant shall attend all the Court dates.
- (iv) The applicant shall not contact the prosecutrix or try to pressurize her;
- (v) The applicant shall not stay in Kavathe Ekand village;
- (vi) The applicant shall not indulge into any criminal activity while on bail;
- (vii) The applicant shall not abscond or leave India without prior permission of the Court and furnish his address to the Investigating Officer alongwith documentary proof of his address;

(viii) 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.)