

BAIL APPLICATION NO.399 OF 2017

Vs.

Mr.Aniket U. Nikam for the Applicant
Mr.Rajan Salvi, A.P.P., for Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: FEBRUARY 15, 2017

P.C. :

1. The application is moved for bail as the applicant/accused is facing charges under sections 354 (D)(2), 341, 504, 506 of the Indian Penal Code and under section 12 of the Protection of Children from Sexual Offences Act, 2012 in C.R. No.I-16 of 2017 registered with Satpur police station, District Nashik.
2. It is the case of the prosecution that the applicant/accused was working with the father of the prosecutrix, 10 years back. Since December, 2016, the applicant/accused started following the prosecutrix and he told her that he wanted to marry her and he

would send his wife to his native place. He threatened that if at she was not ready, the would create her obscene photgraphs and circulate the same on Internet. Though her mother warned him not to follow her, he abused her mother. At the police station, he apologised to her mother but again, he started repeating the acts since 16.1.2017 when the girl used to go to college. The victim girl is 17 years old taking education in the college. The applicant/accused is a married man and has two daughters. The prosecutrix gave complaint on 18.1.2017 and the applicant/accused was arrested on the same day and hence, this Bail Application.

3. The learned Counsel for the applicant/accused has submitted that all the offence under section 354 is bailable and the only offence which is under the Protection of Children from Sexual Offences Act, 2012 makes the punishment upto 3 years. The applicant/accused has committed first offence and therefore he will fall under the category where the punishment is three years. The learned Counsel submitted that the applicant/accused shall not leave in Satpur jurisdiction where the girl resides and is taking education.

4. Learned Prosecutor while opposing the Bail Application has submitted that though the applicant/accused was warned by the mother of the complainant, he went on repeating the offence. He further submitted that threats are also given to the complainant by the accused the hence, bail should not be granted.

5. Perused the FIR. The applicant/accused has followed the prosecutrix and has proposed to her. Though he is married and has two children. The offence under section 354 of the Indian Penal Code is bailable, however, under section 12 of the the Protection of Children from Sexual Offences Act, 2012, if the first offence is committed, then, the punishment is upto 3 years and hence, it is considered as non-bailable. Considering the nature of the offence and as it is the first offence of the applicant/accused the Bail Application is allowed on the following conditions:

- a) The applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/- (Rupees Thirty thousand only) with one or two solvent sureties in the like amount;
- b) The applicant-accused shall not tamper with the evidence;
- c) The applicant/accused shall not harass or chase the prosecutrix and shall also not contact the prosecutrix or her family

members in any manner whatsoever;

d) The applicant-accused shall not indulge into any criminal activity;

e) The applicant/accused shall stay away from the jurisdiction of the Satpur police station, District Nashik, where the prosecutrix is residing and taking education, till a period of nine months from today;

f) The applicant-accused shall not abscond or leave India without prior permission of the trial Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address;

e) 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. Bail Application is disposed of on the above terms.

(MRIDULA BHATKAR, J.)