

nsc.

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL BAIL APPLICATION NO.420 OF 2017

Shahaji Anandrao Patole
Versus
The State of Maharashtra

...Applicant

...Respondent

Mr.J.D.Mane, for the Applicant.

Mr.V.V.Gangurde, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 20th JUNE, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.129 of 2015 registered with the Dahivadi Police Station, Satara for the alleged offences punishable under Sections 376(2)(i), 201, 202 of Indian Penal Code and under Sections 3(a), 4, 5 (o) (m), 6, 21(1) of Protection of Children from Sexual Offences Act.

3. Learned Counsel for the applicant states that the applicant has been falsely implicated in the said case, due to the politics in the Ashram School. He states that the applicant has been in custody for almost 2 years and that investigation is complete and charge-sheet is filed.

4. Learned APP opposed the application. He submitted that the prosecutrix was about 12 years of old, at the relevant time, when the incident took place and that the said incident was also witnessed by her friend. He submitted that the prosecutrix and her friends statements, show that the applicant had sexually assaulted the prosecutrix.

5. Perused the papers, in particular the statement of the prosecutrix, aged 12 years. The applicant at the relevant time was working as a Cook in the Ashram School and was about 45 years of age. According to the prosecutrix, the incident took place on 11th September, 2015. She has stated, that as she was unwell, she had not gone to School and was sleeping in her room. She has stated that in the afternoon, the applicant woke her up and asked her to accompany him. She has stated that the applicant threatened her with dire consequences, if she did not accompany him. She

has stated that the applicant held her hand and took her to kitchen. She has stated that when she started weeping, he pressed her mouth. She has stated that the applicant undressed himself and also removed her clothes and started misbehaving with her and thereafter sexually assaulted her. According to the prosecutrix, when her friend came to the spot, the applicant assaulted her. The friend's statement has also been recorded. The history given by the prosecutrix in her statement, is consistent with the history given by her to the medical doctor. The doctor who examined the prosecutrix, has opined that, evidence of sexual intercourse/assault cannot be ruled out. The applicant was examined after about 3 and ½ days. It also appears that the prosecutrix had sustained an abrasion on her right knee.

6. *Prima-facie*, considering the material on record, this is not a fit case to enlarge the applicant on bail.

7. Hence, the Application for bail is rejected and disposed of as such.

8. It is made clear that the observations made herein are *prima-facie* for deciding the aforesaid application, and the learned Judge shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)