

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

CRIMINAL BAIL APPLICATION NO. 566 OF 2017

Ashok Anant Sawant. ... Applicant.

Versus

The State of Maharashtra. ... Respondent.

Mr. Prakash H. Israni, advocate for Applicant.

Ms. Veera Shinde, APP for State.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : MARCH 23, 2017**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused papers.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 31/1/2017 in Crime No. 43 of 2017 registered at Kashimira Police Station for offence punishable under section 354 of the Indian Penal Code and

Section 8 of the Protection of Children from Sexual Offences Act, 2012.

3 It is the case of the prosecution that Smt. Sheetal Warghade lodged a report at the police station on 31/1/2017 alleging therein that she sends her minor daughters for tuition in the house of the applicant as the wife of the applicant happens to be teacher, who takes tuitions. The complainant had noticed that the minor daughter was reluctant to attend the tuition for quite some time. When the complainant forced her to attend the tuition, the younger daughter who is about 11 years old broke down in tears. She then disclosed to her mother that in the tuition, the girls have to sit in cramped place. That she sits near the door which divides kitchen and hall. That the applicant used to attempt to outrage modesty of the minor girls by making obscene advances, touching them inappropriately. That they were being sexually abused by the husband i.e. the applicant and hence, they do not wish to attend tuition.

4 The learned Counsel for the applicant upon instructions from the wife of the applicant submits that the investigating officer has informed her that the investigation is completed and charge-sheet is about to be filed. It is pertinent to note that the investigating officer has not attended the Court on 6/3/2017 to give instructions to learned APP. The learned Counsel for the applicant has placed on record the letter addressed by the learned Counsel for the applicant which was given to the investigating officer that the application is due to be heard today and he may remain present, if he so desire. It is further pertinent to note that the learned APP had informed the Investigating Officer and also sent wireless message through office of prosecution to give instructions in the matter. It also appears from the submission of the learned Counsel for the applicant that the wife of the applicant is aware about the names of the witnesses and the fact that the statement is recorded under section 164 of the Code of Criminal Procedure, 1973 as they are in close contact with the investigating officer. The possibility that the wife of the applicant is indulging into tampering with the prosecution cannot be ruled out

and hence, it would not be appropriate to enlarge the applicant before filing of charge-sheet.

5 Taking into consideration the manner in which the investigation is conducted, the allegations levelled against the applicant and the fact that the possibility of tampering with the evidence cannot be ruled out, this Court is of the opinion that the applicant does not deserve to be enlarged on bail at this stage.

6 The application being sans merits stands rejected and disposed of accordingly.

7 Copy of this application be sent to the Office of Superintendent of Police (Rural), Thane.

(SMT. SADHANA S. JADHAV, J)