

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

CRIMINAL BAIL APPLICATION NO.1419 OF 2017

Shivaji @ Balu Rajaram Jadhav	..	Applicant
Vs.		
State of Maharashtra	..	Respondent

Mr. Dayanand C. Awari for the applicant.

Mr. A. P. Palkar, Additional Public Prosecutor for the respondents.

CORAM : T.V. NALAWADE, J.

DATE : 18th August 2017

P.C. :

. The application is filed for relief of bail in C.R. No.1129 of 2016 of Loni Kalbhor Police Station under Sections 363, 376, 323, 506 of the Indian Penal Code and some provisions of the Protection of Children from Sexual Offences Act, 2012. Both the sides are heard. Papers of investigation were made available for perusal of this Court.

2. The crime is registered on the basis of report given by victim girl who was aged about 16 years. The present applicant is the cousin of father of the victim girl. For some time, the present applicant was living in the house of the victim girl but he was asked to live separate as his conduct was not proper. Due to such instructions given by the father of the victim girl, the applicant had started living in village Manjari when the victim girl is the resident of Urali Kanchan.

3. The incident in question took place on 11th December 2016. On that day, early in morning, victim girl left home for class. When she

parked her vehicle and started walking towards venue, the applicant came there in his four wheeler. He then asked the victim girl to get in the four wheeler. Victim girl refused to do so. Then he gave threat to her that if she does not get into the car, he would finish her parents. Due to threat, victim girl got in the car. The applicant then took her to a lonely place. There he forcibly took sexual intercourse two times. When she started crying, he again gave threat and he warned her not to disclose the incident to anybody. He again gave warning that she should come with him whenever he calls her. She returned to home after attending the class at 11.00 a.m.

4. On 12th December 2016, the applicant again went to the same spot and again took her to have forcible sexual intercourse with her. On that day, due to threat, she did not disclose the incident but she was feeling weak and she remained on bed on the entire day. When her mother insisted and made an enquiry, she disclosed the incident to the mother on 12th December 2016. After that the mother of the victim girl called the father of the victim girl and incident was disclosed to him. Immediately after that they went to the police station and on the basis of the report given by the victim girl, crime is registered against the present applicant for the aforesaid offences.

5. This Court has carefully gone through the record of the medical examination of the victim girl. This record is consistent with the allegations made by the victim girl.

6. Learned counsel for the applicant submitted that as the victim girl did not disclose the incident immediately, possibility of

consent of the victim girl needs to be considered. This submission is not at all acceptable. The record like birth certificate shows that she was born in May 2001 and so she had crossed just 16 years of age at the relevant time. In view of these circumstances, the defence of consent cannot be considered in the present matter. In view of the nature of allegations, there is clear possibility that the applicant would tamper the prosecution witnesses. In view of these circumstances, this Court holds that bail cannot be granted to the applicant. In the result, the application is rejected.

T.V. NALAWADE, J.