

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1455 OF 2016

Lokesh Devraj Chari

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Shailender Kumar C. S. Singh Advocate for Applicant.

Mr. Arfan Sait APP for the State.

Mr. R. K. Jadhav, PSI Shivaji Nagar Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 3rd FEBRUARY, 2017.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 15/04/2016 in crime no. 153 of 2016 registered at Shivajinagar Police Station. Investigation is completed and charge-sheet is filed against the applicant for offence punishable under sections 376 and 506 of the Indian Penal Code and sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012.

2) It is the case of the prosecution that one day, the father of the victim had seen his daughter talking to the present applicant. He suspected some foul

ism

play. He had called upon his daughter and inquired with her. She appeared to be in tremendous stress, however, upon being forced by the mother, she had disclosed that present applicant resides as her neighbour and carries a sobriquet as a doctor, had been sexually abusing her for almost 2 years. Mother of the victim had then lodged a report at the police station on 14/04/2016 alleging therein that her minor daughter who is about 15 years old had been complaining for almost 15 days that she was suffering from tremendous body pain. They had inquired with her as she appeared to be in tremendous stress. The victim had narrated her trauma which she was undergoing for two years. On the basis of crime no. 153 of 2016 was registered.

3) Victim was taken for medical examination and there she disclosed to the doctor that in December 2014 she had been to the house of the applicant to do some domestic work as the wife of the applicant was carrying pregnancy. At that time, applicant had taken undue advantage of her innocence and had forced himself upon her. He had sexual intercourse with her against her will. She had also disclosed that in August 2014, applicant had collected certain intimate photos with the applicant and used to blackmail her

on the ground that he would upload the said photos on social media and show the same to her father and therefore she was constrained to maintain silence. She has also disclosed that on the second occasion his wife had learnt about the said act and had quarreled with him and left the house, however, he continued to sexually abuse her. He had disclosed to the victim that his wife is also in a relationship with some third person. The father of the victim had over heard the conversation between the applicant and the victim and thereafter, victim had disclosed the entire incident to her parents. The statement of the victim is recorded under section 164 of the Code of Criminal Procedure, 1973 and she has reiterated the narration which she had made to the doctor at the time of her examination.

4) The learned counsel for the applicant submits that there is an inordinate delay in lodging F.I.R. The victim had maintained silence for almost 2 years and therefore, according to him, the statement of the victim, of the first informant ought not to inspire confidence of the court.

5) As against this, the learned APP has submitted that applicant has taken undue advantage of the victim who was 13 years old at the time of incident. It is a heinous offence. Applicant who is married man and more than 36 years

old has sexually abused the victim.

6) Upon perusal of the papers of investigation, it is clear that this is not the case of false implication. The delay in lodging the F.I.R. is not fatal to the prosecution. Hence, applicant does not deserve to be enlarged on bail.

7) Application, being sans merits, stands rejected.

8) The learned Special Court shall not be influenced by the observations made herein above at the time of trial as they are restricted to an application under section 439 of the Code of Criminal Procedure, 1973.

(SMT. SADHANA S. JADHAV, J.)