

Mr.Anand S. Jondhale i/b Pradnya Raibole for applicant.
Ms.J.S. Lohokare, APP for the State.
PSI Rane, Police Station Navghar

DATED: 9th NOVEMBER 2017

PC:-

1. The applicant/accused in Crime No.261/ of 2015 registered with police Station, Navghar for the offences punishable under Sections 363,307,376(1)(2) and 377 r/w 34 of the Indian Penal Code and under Sections 4,5(i)(m),6 of Protection of Children from Sexual Offences Act, 2012 is seeking his release on bail during pendency of the trial.

2. Heard the learned advocate appearing for the applicant/accused. He drew my attention to the FIR and pointed out that, it is against an unknown accused. By drawing my attention to the statement of the alleged victim

of the crime in question, the learned advocate argued that the victim has also referred the perpetrator of crime as unknown person . The learned advocate after drawing my attention to the copy of the deposition of mother of the victim female child argued that the mother of the victim has candidly accepted the fact that the victim child has not identified the accused in the Test Identification Parade conducted at the hospital. With this, the learned advocate appearing for the applicant argued that evidence regarding Test Identification Parade is falsified and therefore, the applicant is entitled for bail.

3. I heard the learned APP for the State. She submitted that the evidence is being recorded in the trial and by now four prosecution witnesses are examined. The learned APP drew my attention to the statement of victim child as well as her niece to point out that the victim was kidnapped and was subjected to rape by the applicant/accused.

4. I have carefully considered the rival submissions and also perused the entire charge-sheet.

5. The victim of the crime in question is a girl aged about 9 years. She is a street child and her family is doing the work of collecting and selling the scrap for the purpose of earning livelihood. Her statement reveals that when she was sleeping in the night and when her mother and other relatives were not with her she came to be kidnapped and then raped. She was found crying on the road and that is how the inquiry of subsequent investigation started.

6. During the course of investigation, the Test Identification Parade was conducted by the prosecution. Mother of the victim child is not an eye witness to the incident in question. The report of the Test Identification Parade reveals that the victim female child has identified the perpetrator of the crime in question. The applicant has seen to have identified by the victim child. Therefore, at this stage,

it is not possible to enter into the merit of the case, when the trial is going on to hold that the entire evidence regarding the identification parade is false.

7. As the trial is going on and as four witnesses are already examined, considering the nature of evidence against the present applicant, no case is made out for grant of bail. Therefore, the application is rejected.

(A.M. BADAR, J)