

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2279 OF 2017

Siddesh Ashok Sorte ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr.Sayaji D.Nangre a/w Ranjeet M.Pawar for the applicant.
Ms. Veena Shinde, APP for the State.

CORAM: A.M. BADAR, J.
DATED: 29th NOVEMBER 2017

PC:-

1. The applicant/accused in crime No I-34 of 2017 registered with Police Station Wagle Estate for the offences punishable under Sections 376 and 354 of the Indian Penal Code as well as under Sections 4, 6, 8 of the Protection of Children from Sexual offences Act, 2012, by this application is seeking his release on bail during the pendency of the trial.

2. Heard the learned advocate appearing for the applicant/accused. He took me through the FIR, the spot panchnama, seizure panchnama as well as the disability certificate of the victim of the crime in question and argued

that the victim of the crime in question is completely blind child and therefore, it is impossible for her to disclose and locate the spot of the incident and to write a diary. It is further argued that the alleged victim of the crime in question as well as the present applicant are not residing at the same place and therefore, the apprehension expressed by the learned Additional Sessions Judge, Thane regarding tampering of the evidence of the prosecution is of no consequent.

3. The learned APP opposed the application by pointing out the FIR as well as the medical report.

4. I have carefully considered the rival submissions and also perused the charge-sheet. The alleged victim of the crime in question is a teenage girl born on 22.2.2004. The present applicant was working in the workshop of her father. The minor female child on 11.2.2017 reported to the investigators that from Diwali festival of the year 2016, the applicant used

to outrage her modesty and thereafter on two occasions he had indulged in penetrative sexual assault on her in the space near the bathroom at the parking slot of the apartment.

5. The minor female child was then subjected to medical examination after lodging the report of the incident. In the medical examination of the minor female victim, the medical officer found that her hymen is ruptured and there were several old multiple tears on her hymen. No fresh external injury was noticed on the body of the victim. The FIR lodged by the minor female child does not show that she was subjected to penetrative sexual intercourse recently. On the contrary, she has stated that such incident lastly took place on the last Thursday of Margshirsha month. She then averred that on 1st February 2017, the present applicant insisted her to allow him to capture her nude photographs. The FIR lodged by her shows that her mother had seen her personal diary and therefore, she became suspect about the happenings

between her and the present applicant. That is how the report came to be lodged against the present applicant.

6. The nature and circumstances, in which the crime is committed are relevant for determining whether the applicant is entitled for bail or not. In the case in hand, the victim of the crime in question is 13 years old minor female child. The applicant was serving her father and that is how minor female child came in contact with the applicant. There is element of breach of trust reposed by the parents of the minor female victim on the present applicant apart from commission of heinous offence of penetrative sexual offence on a minor female child.

7. In this view of the matter, no case for bail is made out. Therefore, the application is rejected.

(A.M. BADAR, J)