

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION No. 2161 OF 2016

Shri Vishal Ashok Bhosale, age 20 years, Applicant
vs.
State of Maharashtra Respondent

Mr. Tejas Hilage for the Applicant.
Mr. Sooraj S. Hulke, APP for the Respondent-State.

CORAM: MRS.MRIDULA BHATKAR J.

DATE : March 22, 2017

P. C. :

This Application is moved for Bail under Section 439 of the Code of Criminal Procedure. It is the case of the Applicant-accused that he is facing charges under Sections 363, 366A and 376 read with Section 34 of the Indian Penal Code and Sections 3, 4 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2 It is the case of the father of the prosecutrix that his daughter who was 15 years old was induced to leave the house on 22.04.2014. The Applicant-accused kidnapped her and had sexual intercourse with her. So, he gave information to the police and an

offence under Sections 363, 366A and 376 of Indian Penal Code was registered Vide FIR No. 52 of 2014 against the Applicant-accused. The Applicant-accused was arrested and thereafter he was released on bail in June/July 2014. It is the case of the complainant that after his release, he again started contacting his minor daughter and used to follow her. Therefore, he has contacted the parents of the Applicant-accused, who were warned by the Police. On 10 December 2014 at night, he found that his daughter was not at home. As she was missing, he again approached the police and reported about the incident. Again the present was registered at C.R. No.23 of 2014 with Shahapur Police Station, District-Kolhapur, under Sections 363, 364 and 366A read with 34 of Indian Penal Code. On 13.12.2014 the girl was found along with the Applicant-accused. After recording her statement, the police found that the Applicant-accused had sexual intercourse with her and Section 376 was added.

3 The learned counsel for the Applicant-accused has submitted that the girl was in love with the Applicant-accused. She has written many letters to him. Relying on those letters, he submitted that the Applicant-accused is only 20 years old. He does

not have criminal antecedents. He is in the Prison since two years and be waived out.

4 The learned Prosecutor, while opposing the Application, has submitted that the Applicant-accused has committed the same offence when he was released on bail. The girl is still not 18 years and is married.

5 Perused the FIR and statements of the girl recorded under Section 164 of Code of Criminal Procedure. Perused the Medical certificate which stated that she was minor and 14 years old and was habitual for sexual intercourse. The Applicant-accused was earlier arrested for the same offence of kidnapping and rape in C.R. No. 52 of 2014. The Applicant-accused was released on bail. Instead of considering it as an opportunity to improve, he again committed the same offence. Under the circumstances, no bail can be granted. The Bail Application is accordingly rejected. The learned Sessions Judge may endeavour to expedite the trial.

(MRIDULA BHATKAR, J.)