

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

BAIL APPLICATION NO.2305 OF 2016

Rukiya & Paramjitsingh Lingya Khetavat Applicant

versus

State of Maharashtra ... Respondent

Mr.Prithpalsingh J. Nahal, Advocate i/b. Ravindra S. Pachundkar,
Advocate for the Applicant.

Mrs.Rutuja Ambekar, APP for the State/Respondent.

**CORAM : MRS.MRIDULA BHATKAR, J.
DATE : 06th FEBRUARY, 2017.**

P.C. :

1. This application is moved for bail u/s 439 of Cr.P.C. by the applicant/accused. The applicant/accused is prosecuted for the offences punishable under section 376 of the Indian Penal Code and under sections 4, 8 and 12 of Protection of Children from Sexual offence Act in C.R.No.158/16 of Paud Police Station. The offence is registered at the instance of prosecutrix.

2. It is the case of prosecutrix that the incident took place on 14/06/2016, at around 01.00 p.m. She has stated that when she was alone in the house, the applicant/accused who was her neighbour suddenly came inside. He had forcible intercourse with her. He tied her hands with her Dupatta and pressed her mouth and thereafter he went out and while going, he bolted the door from outside. Her paternal aunt Gauribai Dhanawat arrived there and she heard cry of prosecutrix. She opened the bolt from the outside and entered house. At that time she found that prosecutrix's hands were tied. The prosecutrix told her about the incident. Thereafter, the offence was registered. The applicant/accused was arrested on 15/06/2016. Hence this application.

3. The learned counsel for the applicant submits that it is a false case is filed against the applicant/accused. The applicant/accused is the neighbour and has rivalry with the real brother of the prosecutrix. He submitted that at the time of incident, the prosecutrix was 18 years old. He further submitted

that the applicant/accused was only 19 years old when the incident took place. He further submitted that there is inconsistency in the complaint and the supplementary statement of the prosecutrix in respect of date and time of the incident. Her supplementary statement was recorded by the police after three days and not immediately, but it was recorded after the statement of her brother. He also submitted that there are lots of contradictions in the statement and in the papers.

4. The learned prosecutor submitted that the applicant/accused was hardly 15 years old at the time of incident. She relied on the medical certificate of the prosecutrix. She further pointed out the statement of Gauribai Dhanawat who rescued the prosecutrix.

5. Perused the FIR, the statement of Gauribai Dhanawat and other witnesses. Perused the medical certificate. There is inconsistency in respect of time and date in the statement of prosecutrix. However, it appears that the prosecutrix is 15 years

old uneducated girl. Her medical certificate discloses that there was vaginal penetration and vaginal tear and report is positive. In view of this, considering prima facie evidence, I am not inclined to grant bail. Hence application is rejected.

6. The application stands disposed of on above terms.
7. The trial Court to expedite the matter.

(MRIDULA BHATKAR, J.)