

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2590 OF 2017

SHARAD BABAN HANDE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Santosh Shirsat, Advocate for the Applicant.

Ms.Anamika Malhotra, APP for the Respondent – State.

Ms.Vandana Mane, Police Inspector, Vikhroli Police Station,
present in the court.

CORAM : A. M. BADAR, J.

DATE : 27th NOVEMBER 2017

P.C. :

1 The applicant/accused in Crime No.410 of 2017 registered with Police Station Mulund, for offences punishable under Sections 354, 354A, 506 of the Indian Penal Code (IPC) as well as under Section 10 of the Protection of Children from Sexual Offences Act, by this application, is seeking his release on bail during pendency of his trial.

2 Heard the learned advocate appearing for the applicant/accused. He drew my attention to two First Information Reports (FIR) dated 22nd September 2010 and 18th September 2012 by First Informant Sindhu Aandhale against accused Suresh Dharma Yadav. The learned advocate also drew my attention to several reports of non-cognizable offences alleged against First Informant Sindhu by her neighbours. With this, the learned advocate for the applicant/accused argued that he is falsely implicated in the crime in question to extort money of Rs.5 lakh from him, and for that purpose, the learned advocate place on record transcript of the telephonic conversation of the First Informant with son-in-law of the present applicant/accused.

3 The learned APP opposed the application by submitting that statement of the Medical Officer of Rajawadi hospital shows that the First Informant had been to the said hospital along with her daughter, and therefore, the version of the First Informant as well as the minor female victim is corroborated by the other material collected during course of investigation. The

learned APP submits that the applicant/accused is a Head Constable in Police Department, and therefore, he is not entitled to be released on bail, considering the nature of offence.

4 I have carefully considered the rival submissions and also perused the record of investigation. In past, two FIRs are lodged by First Informant Sindhu against the resident of the locality alleging that he had outraged her modesty. There are several reports of non-cognizable cases against the present First Informant lodged by the residents of the locality. On this backdrop, allegations in the FIR lodged by her against the present applicant/accused are to the effect that in the night intervening 19th October 2017 and 20th October 2017, there was quarrel between her and her neighbour. She was assaulted by her neighbour, and therefore, she had been to Mulund General Hospital along with her minor daughter for medical treatment. First Informant Sindhu further reported that after her medical treatment, she left the hospital at about 2.00 a.m. of 20th October 2017 and waited at the Police Outpost in the hospital along with

her minor daughter. During the course of her stay at the Police Outpost, she had been to the bathroom for urinating. She left Police Outpost at about 4.45 a.m. on 20th October 2017 and then her minor daughter informed her that the present applicant/accused, who was present at the Police Outpost, had outraged her modesty and caused sexual assault on her by touching her face as well as her chest.

5 Statement of the minor female victim is to the effect that as and when her mother used to go out from the Police Outpost for urinating, the present applicant/accused also used to go out of the Police Outpost and while leaving the Police Outpost, he used to touch her face and breast. It is worthwhile to note that the statement of minor female victim goes to show that when her mother used to leave the Police Outpost, the present applicant/accused also used to leave the Police Outpost and was not staying inside the Police Outpost. This conduct of the present applicant/accused, as reflected from the statement of the minor female victim of the crime in question, is relevant.

6 Along with the application, the applicant/accused has also annexed copy of the transcript of telephonic conversation of his son-in-law with the First Informant, which shows that the First Informant was demanding an amount of Rs.5 lakh from son-in-law of the applicant/accused for withdrawal of the report.

7 Perusal of the case diary shows that the investigation of the crime in question is virtually over. Considering the nature of offence and the fact that the investigation of the crime in question is virtually over, further pre-trial detention of the applicant/accused is not warranted. Therefore, the order :

ORDER

- i) The application is allowed.

- ii) The applicant/accused in Crime No.410 of 2017 registered with Police Station Mulund, for offences punishable under Sections 354, 354A, 506 of the Indian Penal Code (IPC) as well as under Section 10 of the Protection of Children from Sexual Offences Act, is ordered to be released on bail on his executing P.R.Bond in the sum of Rs.15,000/-, and on furnishing surety in like amount.

- iii) As a condition of this order, the applicant / accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.
- iv) The applicant/accused should not contact the prosecutrix or the minor female victim in any manner.
- v) The applicant / accused should not tamper with the prosecution evidence.
- vi) The application is disposed of.

(A. M. BADAR, J.)