

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

BAIL APPLICATION NO. 94 OF 2018

Amol Sadashiv Jawale. ... Applicant.

Versus

The State of Maharashtra. ... Respondent.

Mr. Siddharth Ajay Mehta, advocate for Applicant.

Mr. N.B. Patil, APP for State.

Mr. R.B. Satanvar, PSI, Chinchwad Police Station, Pune City.

CORAM : SMT.SADHANA S. JADHAV,J

DATE : FEBRUARY 6, 2018

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 18/1/2017 in Crime No. 26/2017 registered at Wanowrie Police Station for offence

punishable under section 376(2)(i)(j), 506 of the Indian Penal Code and under section 4, 6, 7, 8, 12 of the Protection of Children from Sexual Offences Act, 2012.

3 It is the case of the prosecution that on 18/1/2017 Aashabai Dhage lodged a report at the police station alleging therein that she is mother of 2 daughters and one son. She is working as maid servant with Army Officer. That on 17/1/2017 at about 5 p.m. she had received a phone call from the school of younger daughter and they informed her that her daughter Ms. X has fainted. The first informant rushed to the school and taken her to Sassoon Hospital. One of the friend of her daughter who had accompanied her while going to hospital had disclosed to the first informant that Ms. X had disclosed to her that the person living in the neighbourhood i.e. present applicant had sexually assaulted her. She had also disclosed that in December, 2016, the said person had taken the girl to Urlikanchan and had sexually assaulted her. The doctor had examined the victim. After she regained consciousness, she had

disclosed to her mother that the present applicant had ravished her. On the basis of the said report, Crime No. 26 of 2017 is registered.

4 Perused the papers of investigation. The statement of the victim was recorded on the same day and she has disclosed to the police that the present applicant was residing as her neighbour. The mother of the victim used to refer to him as brother and hence, the victim had reposed faith in him. That whenever her mother was not at home, the applicant alleged to have called the victim at home under the pretext of teaching her computer. He had touched her inappropriately and misbehaved with her and therefore, she had disclosed to her mother that he is a bad man and they shall live elsewhere. The first informant i.e. mother of the victim was living in the servant quarter and she could not afford taking room on rent and therefore, they continued to live at the same place. The victim had narrated the incidence and the manner in which the applicant had ravished her and had sexually assaulted her on more than 3 to 4 occasions. Since the victim was threatened by the applicant of dire

consequences, she could not disclose all the details to her mother. The victim had disclosed to the doctor the pathetic condition through which she was passing because of her victimisation at the hands of the present applicant.

5 The learned Counsel for the applicant submits that the applicant is an elderly person who has son who is almost 19 years old. It is apparent on the face of the record that a man of about 49 years old and a father of 19 years' son has indulged into such heinous activities and had ruined the life of hardly 15 years old girl.

6 Upon perusal of the papers of investigation it appears that the victim was under tremendous mental trauma because of her victimisation at the hands of the present applicant and therefore, she had fainted in the school. The date of birth of the victim is 3/10/2001. Upon perusal of the statement of the victim and the medical case papers, this Court is of the opinion that the applicant does not deserve to be enlarged on bail.

7 However, the observations made hereinabove are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the trial court shall not be influenced by the same while deciding application for quashing of FIR, discharge application or at the time of trial.

8 The application being sans merits stands rejected and is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)