

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 167 OF 2018***

Kundlik Tukaram Shendge

Applicant

Versus

The State of Maharashtra

Respondent

Mr. Pranav Harishchandra Bhoite, for the applicant.

Mr. Y.M. Nakhwa, APP, for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 8th February, 2018.

P.C. :

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 16.8.2016 in Crime No.546 of 2016 registered at Yawat Police Station on 11.8.2015 initially for the offences punishable under Sections 354, 452 and 504 of the Indian Penal Code.

2. It is the case of the prosecution that on 11.8.2018, Sushila Namdev Madane lodged a report at the police station that she happens to be the mother of a mentally challenged girl Ms. 'X'. That on 8.8.2016 at about 2.30 p.m., she had been to the market to purchase vegetables and asked her neighbour Mrs. Rukmani to keep a watch on her. When she

returned home at about 4 p.m. her mentally challenged daughter just cried loudly and started narrating the act committed by the present applicant. She demonstrated by gestures how he had touched her inappropriately. The first informant had enquired with Rukmani Fasage and she had disclosed that some time ago the applicant herein had taken the mentally challenged girl to her house. The first informant had immediately confronted the applicant and they had asked him as to why he had brought the mentally challenged girl. He had adamantly answered and asked her to make queries with her own daughter. On the basis of the said report, Crime No.546 of 2016 was registered against the applicant for the offences punishable under Sections 354, 452 and 504 of the Indian Penal Code.

3. The applicant was enlarged on bail on 12.8.2016. That the victim was then subjected to medical examination. There is evidence of having intercourse. It is further reported that the victim is a case of moderate mental retardation. The mother had disclosed to the doctor that the applicant resides in the neighbourhood.

4. In the course of investigation, statement of Rukmani was recorded on 11.8.2016 itself wherein she has specifically disclosed that while leaving the house, the first informant had asked her to look after their

mentally challenged girl and had left her daughter in the house of Rukmani. After some time, she saw the present applicant taking away Ms. 'X' to her house. Since they were residing in the neighbourhood, she did not suspect any foul play. However, at 4 p.m. the first informant returned home. The victim girl had told the trauma which she had undergone at the hands of the present applicant and had also named him as "Kundlya".

5. Taking into consideration the papers of investigation, this Court is of the opinion that this is not a fit case for grant of bail where the applicant is father of two daughters and a son has indulged into heinous offence of this kind. No leniency can be shown.

6. The application being sans merits, stands rejected.

7. However, it is made clear that the observations are restricted to an application under Section 439 of Cr.P.C. and shall not be taken into consideration at the time of trial.

(SMT. SADHANA S.JADHAV, J.)