

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

BAIL APPLICATION No. 606 OF 2018

Nagesh @ Gotya Prakash Walke

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Priyal Gopaldas Sarda for Applicant

Mr. S.H. Yadav -APP

Mr. V.S. Mali, ASI, MIDC Police Station, Bhosari, Pune

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JUNE 11, 2018

P.C.

1. Heard. This is an application filed under section 439 of the Criminal Procedure Code. The Applicant herein is arrested on 1st August, 2017 in Crime No. 214 of 2017 registered at Bhosari Police Station, Pune for the offences punishable under section 376, 323 of the Indian Penal Code and under section 3,4 of Protection of Children from Sexual Offences Act, 2012.

2. It is the case of the prosecution that on 1st of August, 2017, Ms. 'X' had lodged a report to the police station, alleging therein that the present Applicant was residing in the neighborhood of her paternal aunt. He was residing in a

rental premises. That on 31st July, 2017, when she was proceeding to the house of her paternal aunt, the Applicant had suddenly appeared in front of her and dragged her in his room and had slapped her and then ravished her. It is further alleged that she had raised hue and cry. Upon hearing her cries, her aunt, who was residing just next door, had rescued her.

3. Upon registration of the first information report, the Applicant, who happens to be the student of IInd Year Engineering, studying in D.Y. Patil, Polytechnic College, Akurdi, was arrested.

4. The prosecutrix was sent for medical examination. On the next day, the history given by the victim and her mother is as follows:

“The victim was going to her paternal aunt's place when the accused forcibly taken the victim to his room and tried to molest her. He hit her on her face and tried to tear her clothes but the victim resisted and the accused had tried to forcibly sexual intercourse with her and at that time due to her noise, her relative had rescued the victim within a few minutes.”

5. There was no history of intercourse as stated by the victim. The opinion of the medical office is as follows:

“As per the history and the chemical examination, there is no evidence of vaginal penetration and no evidence of any injury or inflammation on any

body part.”

The statement of the victim was recorded under section 164 of Cr.P.C. She had disclosed in consonance with the first information report.

6. The learned counsel for the Applicant vehemently submits that it appears that the victim had visited the room of the Applicant. The paternal aunt who is residing next to the premises, had objected the same and upon learning about the same had knocked the door and found the present Applicant and victim in the said room and, therefore, she had subsequently stated that she was ravished by the Applicant.

7. Taking into consideration the statement made by the medical officer and the statement of 1st August, 2017 given by the victim and her mother, this Court is inclined to grant bail to the applicant, who is 19 years' old and is in custody for the past more than 10 months. However, it is made clear that the observation made hereinabove are prima facie in nature and are restricted only for this application and the same shall not be taken into consideration while deciding the application for discharge or at the time of trial. Hence, the following order:

ORDER

- (i) Bail application is allowed.
- (ii) The Applicant be enlarged on bail on furnishing a P.R. Bond in a sum of

Rs. 25,000/- and with one or more solvent sureties in the like amount.

- (iii) The Applicant shall not enter into the jurisdiction of Bhosari Police Station and Bhosari MIDC Police Station till the conclusion of the trial except for attending the police station.
- (iv) The Applicant shall report to the concerned police station on every Sunday between 10.30 a.m. to 1.00 p.m. till framing of the charge.
- (v) The Applicant shall maintain the diary of attendance.

The bail application stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]