

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

CRIMINAL BAIL APPLICATION NO.686 OF 2018

Sanjay Tukaram Sapate
vs.
The State of Maharashtra

..Applicant

...Respondent

Mr. Sandeep S. Dere for the Applicant .
Mr.Vinod Chate, APP for the Respondent.

CORAM : P. N. DESHMUKH, J.

DATE : 4th APRIL, 2018

P.C.:

. This application is for grant of bail by applicant involved in C.R. No.326/2017 registered with Bharti Vidhyapeeth Police Station, Pune for the offence punishable under section 376(2) (f) (i), 506 of the Indian Penal Code, 1860 and under sections 3 and 4 of Protection of Children from Sexual Offences Act, 2012.

2. Admittedly, investigation is completed. Mr.Dere, Learned counsel for applicant submits that applicant is the father of prosecutrix, who is aged 4 years, he is stated to be falsely implicated by the mother of prosecutrix as relations between applicant and his wife were not cordial and prior to the alleged incident which is stated to have occurred in July 2017, applicant had issued legal notice to complainant in September 2014. To establish falsehood of complaint, learned counsel has further referred to subsequent notice which is filed on record at page 110 and submitted that though this notice is of the month of June 2017 addressed by complainant to applicant same was signed by her advocate on 5/5/2017 on which date offence was registered. Further by referring to the medical certificate it is pointed out that same is negative and has therefore contended that

application be allowed as applicant is falsely involved.

3. Learned APP opposed the application and relied upon statement of prosecutrix. Perusal of report dated 5/7/2017 lodged by mother of prosecutrix reveals that 15 days prior to her lodging report applicant having quarreled with complainant had left to his native place along with prosecutrix. After some days complainant also visited the village Kevad and insisted applicant to come to Pune since admission of minor daughter in a school was taken at Pune and accordingly brought her daughter alone to her house at Pune, when minor girl disclosed about sexual assault committed upon her by applicant in the house in the absence of complainant on extending threats to her not to disclose the same to anyone. Accordingly, complaint as aforesaid came to be registered.

4. Contents of report as aforesaid fully corroborate statement of prosecutrix which is recorded on 31/7/2017 wherein in reply to question No.8 she has stated that in her house applicant use to sexually assault her on extending threats. Though from the medical report prosecutrix is certified to have not sustained any injury on her person or her private part and even her hymen is certified to be intact, the same is not sufficient to establish innocence of applicant more particularly when there is no reason for complainant or prosecutrix, who is aged 4 years to falsely implicate applicant, who is their husband and father respectively. In that view of the matter, considering the fact of strained relations between applicant and complainant prior to lodging of report and the medical report, application though is liable to be rejected, it is necessary in the interest of justice to expedite the trial. Hence order:

ORDER

- i) Application is rejected;
- ii) Learned Trial Court/Special Judge seized with

Special Sessions Case No.439/2017 arising out of C.R. No.326/2017 shall expedite the trial and shall decide the same preferably within a period of one year from today;

- iii) Application stands disposed of in above terms;
- iv) Office of Registrar Judicial-I shall communicate this order to the concerned Court.

(P.N. DESHMUKH, J)