

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

BAIL APPLICATION NO. 1825 OF 2018

Bhanudas Sampatrao Chopade	... Applicant
Vs.	
State of Maharashtra	... Respondent

...

Mr. Afreen Shaikh for the applicant.
Mr. Girish Pawar for the complainant.
Mr. Y.Y. Dabke, APP for the Respondant-State.

...
CORAM : PRAKASH D. NAIK, J.
DATE : 6th SEPTEMBER, 2018.

P.C.

1. This is an application for bail. The applicant is seeking bail in C.R.No. 30 of 2018 registered with Parksite Police Station. The offences were registered under Sections 376, 506, 313 of Indian Penal Code as well as Section 4, 6, 10 and 21 of POCSO Act. The FIR was lodged on 16th January, 2018.

2. The victim / complainant is the daughter of the applicant. It is alleged that on 12th January, 2018, the victim had left her home for Sharda Night Junior College. She reached there alongwith her friend at about 6.30 p.m. The victim then left for Vikroli Railway Station and reached at CST railway station. She took Solapur

train and reached Solapur on 13th January, 2018. She waited at the said station for the whole day. She called her friend Sachin Pawar on cell phone and disclosed that she is at Yeshwantpur. Sachin Pawar told her to return to Mumbai as her parents had lodged missing complaint at Vikroli Police Station. Complainant thereafter took decision to return back to Mumbai. She took the train to Mumbai. She reached at Kalyan railway station on 15th January, 2018. She borrowed cell phone from co-passenger and made call to her friend Sachin Pawar. She was approached by Police Inspector who made inquiry with her. She disclosed that her father used to harras her. He had maintained physical relationship with her. He used to assault her and threatened to kill her. She further stated that when she was 8 years old her father had physical relationship with her which continued for a long period of time. She also alleged that she was pregnant and she was admitted in Shyamrao Hospital, Vikroli and she had undergone abortion. On account of sexual harassment committed by her father she had left the house. In view of the said version, first information report was registered on 16th January, 2018.

3. The applicant was arrested on 16th January,2018 and since then he is in custody. The investigation is completed and the

chargesheet has been filed.

4. Learned advocate for the applicant submitted that the documents on record clearly indicate that the version of the victim reflected in the first information report is false. Learned advocate for the applicant pointed out the statement of the mother of the complainant i.e. wife of the applicant dated 19th January, 2018 in which it is stated that the complainant was slapped by her father as she had given evasive answers on being question to her. She was found to have removed the gold ornaments which was wrapped in the clothes. She left on 18th January, 2018 under the pretext going to the college and did not return. Learned counsel also pointed out the statement of the victim recorded under Section 164 of Code of Criminal Procedure. In the said statement, she has stated that she wanted to be on her own. She has left the house on 12th January, 2018. She has also stated that her father had scolder her on the day when she left the house and therefore she decided to be independent and left the house. Victim was medically examined. On perusal of the said document, it is apparent that said document does not support the case of any sexual assault. The history given by the complainant also do not refer to the acts which are reflected in the First Information

Report. The statement of the complainant also recorded by the Child Welfare Committee. In the said statement also she has not stated that she was sexually assaulted by the accused. She has merely stated that her father was strict and used to scold her. Statement of the doctor was also recorded. He has stated that the victim had never been hospitalised for termination of pregnancy as alleged in the First Information Report.

5. Learned advocate for the complainant submitted that complainant is present in the court. She has also filed affidavit stating her statement recorded under Section 164 of Code of Criminal Procedure and before the Child Welfare committee is true and written as per her say.

6. In the light of aforesaid circumstances, more particularly the statement of the victim recorded under Section 164 of Cr.P.C. and statement recorded before the child welfare committee, the applicant can be granted bail.

ORDER

- i) Bail Application No. 1825 of 2018 is allowed;
- ii) The applicant is directed to be released on bail in connection with C.R. No. 30 of 2018 registered with Parksite Police Station on furnishing P.R. Bond of Rs.20,000/- (Rs. Twenty Thousand only)

with one or more sureties in the like amount;

- iii) Applicant is permitted to furnish cash security in the sum of Rs.20,000/- (Rs. Twenty Thousand) for a period of six weeks;
- iv) The application stands disposed off.

Sachidanand
Kuttan Nair

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by Sachidanand
Kuttan Nair
Date:
2018.09.10
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(PRAKASH D. NAIK, J.)