

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2456 OF 2018

Rajendra Shantilal Gaud, Age 34 years, Occ.Driver, R/o.Chikwadi, Kudamai Mandir, Malwani Church, Malad (W), Mumbai (Presenty lodged at Thane Central Jail)	Applicant
versus	
The State of Maharashtra	Respondent

Ms.Anjali Patil for applicant.
Mr.A.R.Kapadnis, APP, for State.

CORAM : PRAKASH D. NAIK, J.
DATE : 28th November 2018

PC :

1. This is an application for bail in connection with CR No.534 of 2017 registered with Dindoshi Police Station for offences under Section 363 of Indian Penal Code. The FIR was lodged against unknown persons. The grievance of the complainant, who is mother of the victim, is that her daughter was missing from house and therefore the complaint was lodged on 16th July 2017. Subsequently the victim who is aged about 17 years, was traced and her statement was recorded. According to the statement of the victim, she got acquainted with one of the rickshaw-wala who then handed over over her to the other rickshaw driver. The said rickshaw driver took the victim to the hotel and committed sexual intercourse. It is also stated that she also got acquainted with third rickshaw driver. The prosecution case is that other accused Indrakant Badri Jha is the person who has committed sexual intercourse with the victim. She is aged about 17 years.

2. On account of non filing of charge sheet against the applicant who has attributed the role of sexually assaulting the victim, was granted bail u/s 167(2) of Code of Criminal Procedure, 1973.

3. Learned counsel for applicant submitted that the person who has been attributed the role of sexual assault has been granted bail. The victim has purportedly identified the applicant but has not assigned any role. The third rickshaw driver was not arraigned as an accused and his statement has been recorded as witness. It is also pointed out that there is history of the victim leaving her residence and missing for one week, which appears from the medical case papers.

4. Learned APP, however, submitted that the conduct of the applicant has to be taken into consideration. He is the person who has handed over the custody of the victim to the co-accused Indrakant Badri Jha. The said fact is corroborated by the statement of victim and other witnesses. The statement of third rickshaw driver corroborates the prosecution case.

5. I have perused the documents on record. Apparently the role of sexual assault is attributed to Indrakant Badri Jha, who is granted bail by the Trial Court for not filing the charge sheet within stipulated time u/s 167(2) of Cr.P.C. The victim has allegedly accompanied the said accused to the hotel where allegedly there was sexual assault. The victim is aged about 17 years. Although applicant is purportedly identified, the supplementary statement was not recorded, assigning any role to the applicant. The applicant is in

custody from 21st July 2017. Investigation is completed and charge sheet is filed. In the circumstances, case for grant of bail is made out.

6. Hence, I pass following order :

ORDER

- (i) The applicant is directed to be released on bail in connection with CR No.534 of 2017 registered with Dindoshi Police Station on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (ii) The applicant shall report Dindoshi Police Station once in a month on every first Saturday between 10 am and 12 noon till further orders;
- (iii) The applicant shall not tamper with the evidence;
- (iv) The applicant shall provide residential address to the investigating officer after he is released on bail;
- (v) Criminal Bail Application No.2456 of 2018 is disposed off.

(PRAKASH D. NAIK, J.)

MST