

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

CRIMINAL BAIL APPLICATION NO. 242 OF 2019

Maruti Daji Sheponde	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.M.A. Shaikh for Applicant.
Mr.Ajay Patil, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.

DATE : 22nd April 2019.

P.C. :

1] This is an application under Section 439 of the Code of Criminal Procedure for bail in C.R. No. I-149 of 2018 dated 10/08/2018 registered with Wagle Estate Police Station, District Thane, for the offence punishable under Section 376, 376 Part 2(I)(F), 506 of the Indian Penal Code and Section 4, 6, 8, 10 of the Protection of Children from Sexual Offences Act, 2012.

2] Heard the learned counsel for the applicant and the learned APP for the State. Perused the record of investigation.

3] The prosecutrix in the present crime was aged about 17 years on the date of lodgment of the crime and with a view to protect her identity and in consonance with the provisions of Section 228(A) of the Indian Penal Code and Section 33(7) of the POCSO Act, the detailed narration of the facts mentioned in the first information report and in the statement of the prosecutrix are hereby avoided.

4] The prosecution case in nutshell is that, the applicant being step maternal uncle of the prosecutrix, by taking undue advantage of the situation on 18th February 2018 committed forcible penetrative sexual assault on the prosecutrix. The prosecutrix subsequently became pregnant due to the said assault. The present crime has been registered on 10th August 2018. During the course of investigation, the applicant came to be arrested on 10th August 2018 and after completion of investigation, the police have submitted chargesheet.

5] The record indicates that the DNA report pertaining to the baby girl to whom the prosecutrix has given birth mentions that the applicant has been excluded to be the biological father of the said child.

6] In view thereof, the applicant can be released on bail.

Hence, the following order :-

- (i) The Applicant be released on bail in C.R. No. I-149 of 2018 dated 10/08/2018 registered with Wagle Estate Police Station, District Thane, on his furnishing P.R. bond of Rs.15,000/- with one or two local sureties in the like amount.
- (ii) After his release from Jail, the applicant shall attend all the dates before the trial Court, unless exempted by the concerned Court.
- (iii) In case of two consecutive defaults, the Prosecution is at liberty to file an application for cancellation of bail.
- (iv) Applicant shall not tamper with the evidence and/or interfere with the process of investigation.
- (v) Application is allowed in the aforesaid terms.
- (vi) All the concerned to act on the authenticated copy of this order.

[A.S. GADKARI, J.]