

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

CRIMINAL BAIL APPLICATION NO. 3012 OF 2018

Asha Dnyanoba Shinde ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr. Prabhanjay R. Dave for Applicant.

Ms. Rutuja Ambekar, APP for respondent – State.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 15, 2019.

P.C. :

. In Crime No. 206 of 2017 registered on 14th December 2017 for an offence punishable under Sections 366(b), 368, 372, 373, 376(2) (n), 376(d) read with Section 34 of Indian Penal Code and Section 5 and 6 of PITA Act and Sections 3(1), 4, 8, 16 and 17 of Protection of Children from Sexual Offences Act, the Applicant is seeking regular bail. The Applicant was arrested on 17th January 2018.

2. The contentions of the Applicant is as follows :-

- (a) After the investigation in the matter is completed, chargesheet is filed;
- (b) The Applicant is not specifically named in the FIR and the only vague reference that could be traced in the statement under Section 164 of the Code of Criminal Procedure is that, “a lady from Bombay”.
- (c) Even if assuming without admitting that the Applicant is the same lady as is referred in the statement under Section 164 of Cr.P.C., still in absence of a specific attribution to the Applicant, which satisfies the ingredients of relevant sections under which the Applicant is booked, the Applicant cannot be continued in detention.
- (d) Even if there is one criminal antecedent, the same cannot be considered adverse to the interest, particularly in the backdrop of the vague nature of allegation in the chargesheet in question.
- (e) The victim girl has already ran away from the Remand Home where she was kept and as such the entire trial in absence of victim girl will be a futility.

As such, the learned Counsel for Applicant prays for releasing the Applicant on bail.

3. The learned APP submits that there is strong evidence available on record to connect the Applicant to the crime in question. According to her, statement under Section 164 Cr.P.C and the Identification Parade specifically pin points the involvement of the Applicant in the crime in question. As such, the learned APP prays for rejection of bail to the Applicant.

4. Considered rival submissions.

5. Though the learned Counsel to some extent was right in pointing out that there are no specific attribution, viz – place of incident, date of incident and the investigating agency has not identified the Applicant, however, in the backdrop of reference of 'a lady from Bombay' in the statement under Section 164 Cr.P.C., the identification of the Applicant in the Identification Parade and one antecedent of similar nature against the Applicant is sufficient to involve her in the crime in question.

6. That being so, the Application fails. Hence the same is rejected.

7. Liberty to approach afresh before the Special Court for seeking bail, in case if the charge is not framed against the Applicant within a period of six months.

(NITIN W. SAMBRE, J.)