

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1224 OF 2021  
IN  
CRIMINAL APPEAL NO. 146 OF 2019

Afajuddin Mohammad Shaikh  
@ Takala Nana : Applicant

Versus

The State Of Maharashtra & Anr. : Respondents

Mr. Sachin Chandan, appointed for Applicant.  
Mr. Y. M. Nakhwa, APP for Respondent/State.  
Ms. Farhana Shah appointed for respondent No.2.

CORAM : S. S. SHINDE,  
SARANG V. KOTWAL, JJ  
DATE : 27<sup>th</sup> APRIL, 2022

P.C.

1. Heard Mr. Sachin Chandan, learned counsel appearing for the applicant, learned APP Mr. Y. M. Nakhwa, appearing for respondent/State and Ms. Farhana Shah, learned counsel appearing for the 2<sup>nd</sup> respondent.

2. The learned counsel appearing for the applicant submits that though the victim was unconscious till 10.09.2014, the investigation was proceeded and, the Investigating Officer with the help of panch witness, who was the panch in both the panchnamas, almost completed the investigation. He invites our attention to the evidence of PW 10- Dr. Alka Jadhav and submits that if the evidence of said medical officer is read in its entirety, it cannot be said that the appellant has committed the sexual assault as alleged. Therefore he submits that the applicant deserves to be enlarged on bail.

3. On the other hand, the learned APP for the Respondent/State and learned counsel for the 2<sup>nd</sup> respondent invite attention of this Court to the deposition of victim as also medical evidence and other material collected by the Investigating Officer which is placed on record before the trial Court and submit that, the appellant has committed serious offence and therefore, the application may be rejected.

4. We have considered the submissions of the learned counsel appearing for the parties. With their able assistance, we have carefully perused the findings recorded by the trial court and, the medical evidence of both medical officers. We have carefully perused the statement of the victim wherein the incident has been narrated in detail. In her deposition, she has reiterated the incident. The medical evidence also supports the version of the prosecutrix. At the relevant time, the prosecutrix was six years old. She has alleged that she was given poisonous substance and the appellant alleged to have committed sexual assault upon her.

5. Upon perusal of the findings recorded by the trial Court, we are of the opinion that the findings recorded by the trial court are in consonance with the evidence on record. No case is made out for enlarging the Applicant on bail. Hence, the application stands rejected. List the appeal for final hearing in the week commencing from 04.07.2022.

6. It is made clear that the observations made herein above are prima facie in nature and are confined to the adjudication of the present application only.

[SARANG V. KOTWAL, J]

[S. S. SHINDE , J]