

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

BAIL APPLICATION NO. 4454 OF 2021

Sandeep Shivaji Shinde	...Applicant
Versus	
The State Of Maharashtra and Anr.	...Respondent

Adv. Babu Singh a/w Adv. Jigar Agarwal a/w Adv. Suman
Mourya a/w Adv. Niranjana Kondgala for applicant.
Mr. S.H. Yadav, APP for Statement
Mr. D.T. Tiwari i/b R.M. Upadhyay for respondent no. 2

CORAM: M. S. KARNIK, J

DATED: DECEMBER 8, 2022

PC:-

1. Heard learned counsel for applicant, learned counsel for APP and learned counsel for complainant.
2. This is an application for bail filed by applicant - Sandeep Shivaji Shinde, in connection with C.R. No. 03 of 2021 registered with Trombay Police Station, Trombay, for the offence punishable under sections 363, 376, 376(3)(F) (N) of the Indian Penal Code, 1860 and under sections 4, 6, 8, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3. The statement under section 161 of Code of Criminal Procedure, 1973 (hereafter 'Cr.P.C.', for short) came to be recorded on 18/01/2021. The age of the victim at the relevant time was 15 years and 5 months as per the birth certificate which is produced on record. In the said statement victim has stated that her father expired long back. The step-father had committed forcible sexual intercourse with her on 2 to 3 occasions since 2020 because of which she was fed up.

4. On 02/01/2021 in the evening she was asked by her mother to get some provisions. Near Mankhurd bridge she was asked by an unknown person to sit in the car. She was taken to a lodge. That unknown person disclosed his name as Sandeep Shinde. She alleged that the applicant had committed forcible sexual intercourse with her. Next day morning she was dropped near her house. She did not immediately go to her house but visited her relatives. The statement under section 161 of Cr.P.C. came to be recorded on 18/01/2021 i.e. after almost 16 days from the day of the incident. The applicant was sent for medical examination.

The medical history is recorded that it was on the 01/01/2021 an unknown person committed forcible sexual intercourse with her, however, no one is named. It is only stated that she was taken to hotel by stranger in his car. This medical history was recorded on 04/02/2021.

5. Statement under section 164 of the Cr.P.C. came to be recorded on 29/01/2021. In the statement, though the victim is consistent with her version, the assailant is not named. In the said statement she has stated that her step-father committed forcible sexual intercourse with her and at times assaulted her. The medical opinion records "overall finding is consistent with old sexual intercourse/assault". The applicant was not known to the victim. Apart from the victim in the statement recorded under section 161 Cr.P.C. stating that the unknown person disclosed his name as Sandip Shivaji Shinde, there is no other material to demonstrate his complicity in the commission of the offence. No test identification parade was conducted. The learned counsel for the applicant submits that in the two statements recorded, one under section 164 Cr.P.C. and

thereafter before the medical officer, the victim did not name the applicant. The applicant is in custody since 18/01/2021. The FIR is also registered after an unexplained delay of 12 days this delay. The trial is not likely to commence any time soon. The chargesheet has been filed and investigation is conducted. There is no need for prolonging the custody of the applicant. Hence the following order.

ORDER

- (a) The applicant - Sandeep Shivaji Shinde, in connection with C.R. No. 03 of 2021 registered with Trombay Police Station, Trombay, shall be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more sureties of the like amount.
- (b) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- (c) The applicant shall report to the concerned police station once in a month i.e. on first Monday of every month between 11.00 am to 01.00 pm and thereafter as and when called.

(d) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicants should not tamper with evidence.

6. Bail application is disposed of.

(M. S. KARNIK,J.)