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Sanjay Vs. State of Maharashtra

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Court : Mumbai Aurangabad

Decided On : Apr-04-2016

Judge : M.T. Joshi

Appeal No. : Criminal Application No. 1672 of 2016

Appellant : Sanjay

Respondent : State of Maharashtra

Judgement :

Oral Order:

1. Heard both sides.

2. The present applicant, who is arrested by Upanagar Police Station, District Nandurbar in Crime No.3 of 2016 for the offences punishable under section 376, 504, 506 of the Indian Penal Code and under section 3(A), 3, 4 of the Protection of Children From Sexual Offences Act, is praying for his release on bail.

3. Submissions from both sides would show that the present applicant is serving as a Primary Teacher at Lonkheda, Tq. Shahada, Dist. Nandurabar. The present applicant was the friend of the mother of 15 years and 10 months old victim. According to the victim, on 26/12/2015, in the night, the present applicant had been to her house and the house of her widowed mother at Nandurbar, since her mother wanted to purchase a house at Nandurbar on the advice of the present

applicant. In the night of 26/12/2015, however, he committed forcible sexual intercourse in the house and in the morning of 27/12/2015 at 8.00 am, he again had sexual intercourse with the victim. Thereafter, he threatened her (victim) not to narrate the incidents to her mother otherwise her mother also would not be spared. In the circumstances, though the incidents have occurred on 26/12/2015 and 27/12/2015, the FIR came to be filed on 09/01/2016.

4. Learned counsel for the applicant submits that only due to the disruption in the relations, a false complaint after 12 days of the alleged incidents came to be filed. He submits that the applicant is a primary teacher while mother of the victim is serving as a nurse in the primary health center. He submits that the applicant was arrested on 10/01/2016. Chargesheet is now filed. The medical evidence would not corroborate the victim's version and, therefore, the applicant be released on bail.

5. Learned A.P.P. however opposed the application. He submits that the present applicant, who is above 45 years old, has sexually assaulted a 15 years and 10 months old girl, who and whose mother had reposed trust on the applicant. Merely because the FIR is belated, the applicant cannot be released on bail.

6. Upon hearing both sides and finding that since the FIR was filed 12 days after the incidents, the medical evidence would not be either way helpful. In view of the fact that the present applicant is in permanent government job being a primary teacher, would be available for the trial and since the trial would take its own time, in my view, the applicant can very well be released on bail on certain conditions.

7. Hence, the following order:-

I) The Application is allowed.

II) The applicant be released on bail in Crime No.3 of 2016 registered with Upanagar Police Station, Dist. Nandurbar for the offences punishable under section 376, 504, 506 of the Indian Penal Code and under section 3(A), 4 of the Protection of Children From Sexual Offences Act, upon his executing P.R. bond in the sum of Rs.15,000/- (Rs. Fifteen Thousand) and also upon furnishing surety in

the like amount.

III) The applicant shall not enter the territorial limits of Nandurbar city area till the trial is concluded except on the date/s of the hearing of the trial in the present case.

IV) The applicant shall not in any way attempt to influence any of the prosecution witnesses in any manner.

8. Application stands disposed of accordingly.

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