

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 910 OF 2015

Arun Raju Jadhav. ... Applicant.
Versus
The State of Maharashtra ... Respondent.

Mr. Machhindra A. Patil, a/w. Mr. Vijay Garad, advocate for Applicant.

Ms. Rutuja Ambekar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JUNE 18, 2015

P.C.:

1 Heard the learned Counsel for the applicant and learned APP.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 15/10/2014 in Crime No. 317 of 2014 registered at Kurar Police Station initially for offence punishable under Section 376, 366(A), 363 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 14/10/2014 one Sunil Ganpat Jadhav lodged a report at the police station alleging therein that he is the brother of the victim. On 10/10/2014 he had received a phone call from his house informing him that his younger sister who has completed 14 years of age had left house without informing anybody. He had lodged missing report bearing No. 47 of 2014 on 11/10/2014. Subsequently, the son of the complainant informed him that on the day of incident i.e. on 10/10/202014 the victim girl was seen talking to the present applicant and has left in the company of the present applicant. The complainant enquired with the parents and relatives of the applicant and realised that he was also missing from his house from that date and time. Hence, he had informed the police that the applicant has removed his younger sister from his lawful custody and hence, the applicant was being prosecuted for offence punishable under Section 363 and 366 of the Indian Penal Code. After completion of investigation, charge-sheet is also filed for offence punishable under Section 376 of the Indian Penal Code.

4 On 13/11/2014 the statement of the victim was recorded under Section 164 of the Code of Criminal Procedure, 1973 wherein she informed that she is 15 years old. That she was acquainted with the present applicant 2 to 3 years prior to 10/10/2014. On 10/10/2014 her parents were out of station. She had called her friends to her house. At that time, her brother had come home. He abused her and slapped her. She had left house angrily. At that time, the present applicant is alleged to have told her to accompany him to Barshi since she was scolded and assaulted by her brother and parents. Thereafter, they had been to Barshi where the parents of the present applicant are residing. On 13/10/2014 mother of the applicant received phone call about registration of offence and therefore, his mother had brought both of them to the police station. She has specifically stated that prior to Navratri festival the applicant had visited her house. That they were in love with each other and they had sexual intercourse.

5 It prima faice appears that the victim had voluntarily withdrawn herself from the lawful custody of her brother and therefore, it cannot be said that the applicant had abducted her. The victim has subsequently stated that she is in love with the applicant. The victim had no grievance that she has been coerced to leave the house or to have sexual relations with the applicant.

6 Taking into consideration the facts of the case and submissions advanced across the bar, the applicant has made out prima facie case for grant of bail.

7 However, the above observations are prima facie in nature. The same shall not be considered while deciding application for discharge or quashing of FIR or at the time of trial. The trial Court shall decide the matter on its own merits uninfluenced by the abovesaid observations.

8 Hence, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.
- 9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)