

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1458 OF 2015

1 Santosh Ragho Palavi.
2 Alpesh Dattatray Desale. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. R.D. Suryawanshi, advocate for Applicants.

Ms. P.P. Shinde, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 3, 2015

P.C.:

1 Heard the learned Counsel for the applicants and the learned
APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal
Procedure, 1973. The applicants herein are arrested on 1/4/2015 in
Crime no. 74 of 2015 registered at Kalyan Taluka Police Station for
offence punishable under Section 376, 363, 323, 452 read with
Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 27th March, 2015, sister-in-law of the victim had lodged a report at the police station alleging therein that her sister-in-law i.e. sister of her husband was initially residing at village. She had been in love with Dinesh Parshuram Kirpan. That her family had realised that she was in love with Dinesh Kirpan. They had therefore, sent the victim girl to reside with the complainant. The complainant was knowing Dinesh Kirpan. According to the complainant, on 27/3/2015 when the victim girl was at home with the complainant, at about 7 p.m. Dinesh Kirpan had come to their house. That he had brought two persons with him. He had called upon the victim girl. He had taken away the victim girl alongwith him. All the said friends of Dinesh had accompanied the victim girl and Dinesh and had left the house in a Indica Car bearing No. MH 04 BN7086. On the basis of her report, Crime No. 74 of 2015 is registered. Investigation is completed and charge-sheet is filed.

4 Perused the statement of the victim dated 31st March, 2015 as well as the statement under Section 164 of the Code of Criminal

Procedure, 1973, wherein the victim had specifically alleged that she was in love with Dinesh Kirpan. That he had ravished her against her wish. The present applicants are alleged to have accompanied Dinesh on the date of the incident and helped him to take away the victim girl with whom he was in love. They had made arrangement. Upon perusal of the statement of the victim, it clear that the applicants had not taken undue advantage of the situation and had not caused any harm to the victim girl.

5 The learned Counsel for the applicant submits that being friends of Dinesh, they had helped the young couple to elope from the house.

6 Taking into consideration the facts of the case, submissions advanced across the bar and since the investigation is completed and charge-sheet is filed, the applicants deserve to be enlarged on bail.

7 It is made clear that the observations made hereinabove are restricted to an application under Section 439 of the Code of Criminal Procedure, 1973. The same shall not be considered while deciding

the application for discharge or for quashing of FIR or at the time trial. The learned Trial Court shall decide the matter uninfluenced by the above said observations and arrive at a conclusion only on the basis of the substantive evidence adduced by the prosecution at the time of trial.

8 Hence, following order is passed:

ORDER

- (i) The application is allowed.
- (ii) The applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- each and one or two sureties in the like amount.
- (iii) The applicants shall not tamper with the evidence.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)