

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2464 OF 2014

Mr. Yeshwant Namdeo Mengal	...	Applicant
vs.		
The State of Maharashtra	...	Respondents

Mr.Nilesh Masurkar i/b. Mr. Akshay Gosavi,Advocate for the applicant
Mr.Arfan Sait, APP, for the respondent-State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 4th March, 2015.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 24.7.2013 in Crime No.109 of 2013 registered at Khalapur Police Station for the offence punishable under Section 302 of IPC.

2. It is the case of the prosecution that one Barku Shingva had lodged a missing report about his daughter on 20.7.2013 about the fact that his daughter was missing from the house since 16.7.2013 and despite enquiries, she was not found. On 24.7.2013, the complainant was called to the police station and was informed by the police authorities that the applicant herein was taken into consideration and upon enquiries he had disclosed to the police that on 16.7.2013, the applicant had taken the daughter of the complainant to forest. He had elicited

sexual favours from the minor girl. Upon her denial to oblige, the applicant is alleged to have caused her homicidal death. The complainant saw the dead body of his daughter and identified it to be his daughter and lodged the report on the basis of which Crime No.109 of 2013 is registered against the applicant under Sec. 302 of IPC.

3. The learned counsel for the applicant submits that from the recitals of the FIR, it can be inferred that the applicant was first taken into custody and he had disclosed about his complicity to the police. The learned counsel submits that the said disclosure made to the police is hit by Section 25 of the Indian Evidence Act and cannot be treated as admissible evidence and, therefore, the learned counsel for the applicant submits that the applicant has been falsely implicated and hence he deserves to be enlarged on bail.

4. The learned APP submits that in the missing complaint, the investigating officer had recorded the statements of the villagers. One such villager Bhagibai Bhavar had disclosed to the police that on 16.7.2013 when she was returning home from the agricultural land she had seen the present applicant driving a motorcycle and the deceased was a pillion rider. However, the witness has specifically stated that thereafter the deceased has not returned home. The I.O. has also recorded the statement of one Ms. Bharati Ugda, who has disclosed

that on 16.7.2013 at about 3.30 p.m. She has seen the deceased proceeding with the applicant on the motorcycle and they had gone on Mumbai-Pune N.H. 04 Road, towards Karjat.

5. The learned APP submits that there is ample evidence of last seen together. In view of this, the applicant does not deserve grant of bail.

6. The application being sans merit, stands rejected.

7. The learned Sessions Judge shall not be influenced by the observations made hereinabove at the time of trial.

(SMT.SADHANA S.JADHAV, J.)