

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

BAIL APPLICATION NO.43 OF 2016

Ajay Kumar Naikare

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Abhaykumar Apte for the Applicant.

Mr. D.P. Adsule, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 12th FEBRUARY, 2016.

P. C. :

This is an application for bail, filed by the aforesaid Applicant, who is facing trial in Sessions Case No.39 of 2015 pending on the file of the Additional Sessions Judge, Khed, Rajgurunagar, District-Pune.

2. The case of the prosecution in brief is that during the intervening night of 30.9.2015 and 1.10.2015 the Applicant herein had kidnapped the minor daughter of the complainant Mrs. Vandana Ransing and thereafter had sexual intercourse with her. Pursuant to the FIR lodged by said Vandana Ransing Crime No.520 of 2015 was registered at Chakan Police Station, District-Pune, for offences

punishable under section 366(A) and 376 of the IPC and section 4 of the Protection of Children from Sexual Offences Act, 2012. The Applicant was arrested on 1.10.2015. The crime was investigated and upon completion of the investigation charge-sheet was filed and case being sessions triable committed to the Sessions Court, Khed-Rajgurunagar, Pune. The Applicant herein had filed his bail application. Said application was dismissed by Additional Sessions Judge, Khed-Rajgurunagar vide order dated 18.12.2015. Hence, the present application.

3. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent -State. The records prima facie indicate that the victim is of 17 years of age and hence, minor. It is to be noted that the Applicant himself is of 23 years old boy. The records reveal that the Applicant and the victim were neighbours. The statement of the victim indicates that they were friendly with each other. The statement of the victim reveal that on 30.9.2015 at about 9.30 hours her father found the photograph of the Applicant in her school bag and her parents had shouted at her and that she had not gone to school on the following day. She had stated that at about 12.30 a.m. the Applicant had come to her house and told her to accompany him and that she had

proceeded with the Applicant and that they had stayed in the house of the paternal aunt of the Applicant, where they had sexual relationship. The statement of the victim as well as the history given to the Medical Officer the victim had stated that she had willingly accompanied the Applicant. It is true, being a minor consent is not material, however, considering the age of the Applicant and also considering the fact that the victim is herself of 17 years old girl, the Applicant need not be detained any further. The Applicant is permanent resident of Chakan, District-Pune. There is no possibility of the Applicant absconding.

4. Under the circumstances, the application for bail is allowed on the following terms and conditions:-

(i) The Applicant is ordered to be released on bail on furnishing bail bond of Rs.30,000/- (Rupees Thirty Thousand only) with one or two sureties to the like amount to the satisfaction of Additional Sessions Judge, Khed-Rajgurunagar, District-Pune.

(ii) The Applicant shall not interfere with the victim and /or witnesses in any manner.

(ANUJA PRABHUDESSAI, J.)