

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 991 OF 2016

Khalid Mohammed Pathan

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Dayanand C. Awari Advocate for Applicant.

Ms. Veera Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : AUGUST 20, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested in crime no. 65 of 2014 on 07/05/2014 and has been charge-sheeted for offence punishable under sections 376, 354, 506 (1), 109 of the Indian Penal Code and Section 4, 5, 6, 8, 16 (17), 19 & 21 of Protection of Children from Sexual Offences Act, 2012

2) It is the case of prosecution that on 16/04/2014, the victim lodged a report at Wanawadi police station, alleging therein that she is studying in City International School in 4th standard. The school timings are 7.00 a.m. to 2.30 p.m. That Applicant happens to be the driver of the school bus which is registered as MH-12/HB/2133. Applicant is the owner of two buses. One is a

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small bus and another one is big bus. It is the case of the victim that in October 2013, after school hours, she had boarded the school bus. Applicant had transferred the children/students from the big bus to the small bus. He had asked the victim not to alight from the bus. The bus was taken to the house of the Applicant and there, the victim was ravished by the Applicant. After the hazardous act, the Applicant had administered her a promise in the name of God that she should not disclose the incident to anyone. The same incident was repeated on more than 3 occasions. Finally, the victim had informed her parents about the incident. The parents had approached the school authority. School authorities were insensitive to the grievance made by the parents and asked her to travel by another bus. A written complaint was filed, yet no action was taken by the school authorities. Thereafter, the victim was constrained to lodge a report at the police station, on the basis of which crime no. 65 of 2014 was registered.

3) The learned counsel for the Applicant submits that the statements of certain witnesses would show that the complainant was not paying the bus fare to the applicant and therefore, he has been falsely implicated. It is also submitted that the investigation is completed and charge-sheet is filed and that

the applicant is in jail for almost two years.

4) At this stage, the learned APP submits that the trial has commenced. Charge has been framed against the accused sometime in the month of June 2016 and the court is in the process of issuing witness summons.

5) Taking into consideration the nature of allegations, the age of the victim and the evidence collected by the Investigating Officer in the course of investigation, the Applicant does not deserve the grant of bail. The victim was of a tender age and has been physically abused by the driver of the school bus. In fact, the school bus was hired by the school authorities and therefore, there was no question of paying the fare to the present Applicant.

6) The learned APP also submits that the Applicant would be liable to be punished for offence punishable under section 376 (c) of the Indian Penal Code.

7) Hence, Application being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)