

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1717 OF 2016

Bhausahab Dnyandev Sonawane ...	Applicant
Vs.	(Orig. accused No.2)
The State of Maharashtra ...	Respondent

Mr. Rahul S. Kate, Advocate for the applicant.
Mr. S.S. Pednekar, APP, for the State.

CORAM: SMT. SADHANA S. JADHAV, J.
DATE : 17th October, 2016.

P.C.

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 25.1.2016 in Crime No. 42 of 2016 registered at Yavat Police Station for the offence initially registered under Sections 354 and 506 read with Section 34 of the IPC and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 and thereafter Section 376 of the Indian Penal Code.

2. It is the case of the prosecution that on 24.1.2016, Ms. 'x' who was aged about 14 years and 6 months old lodged a report at the police station alleging therein that the applicant herein resides in the close neighbourhood of the prosecutrix. It is alleged that one Roshani Chavan

was her friend. When she had been to the house of Roshani, the main accused Kiran Chavhan had entered into the house and attempted to outrage her modesty. he had expressed his love for her. He used to stalk her. As against the present applicant, it is alleged that on 15.1.2016, the present applicant had told the first informant that Kiran Chavan was in love with her and she should oblige him or else they would abduct her. The victim had not informed her parents about the same but refused to go to school and upon enquiry, disclosed to her mother about the said incident and hence the offence was registered under Sections 354 and 506 of IPC. A supplementary statement of the victim was recorded on 26.1.2016 wherein the complainant had alleged that on 21.12.2015, she had gone to answer nature's call. That the present applicant had seen her going. Thereafter, Kiran Chavan and the present applicant had stalked her. Kiran had accompanied the applicant. Thereafter, Kiran had threatened her of dire consequences and asked her to sit on the motor-cycle. He had taken her in the bushes and had ravished her against her will. It is alleged that at that time, the present applicant was made to stand guard. The allegation against the present applicant is that he had facilitated the act of Kiran Chavan.

3. The learned counsel for the applicant has placed on record the

order dated 30.9.2016 by which the accused Kiran Chavan is enlarged on bail by the Addl. Sessions Judge, Baramati. The learned Sessions Court had issued notice to the complainant to file a reply. The complainant had appeared in person and opposed the application for bail. The learned Sessions Court, upon considering the statements of the witnesses in the charge sheet has enlarged the original accused Kiran Chavan on bail. It is pertinent to note that the applicant is in custody and there is no allegation against him for the offence punishable under Section 376 of IPC or under the provisions of the Protection of Children from Sexual Offences Act. In this view of the matter the applicant deserves to be enlarged on bail.

4. The observations are prima facie in nature and are restricted to an application under Section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of the FIR, discharge application or at the time of trial.

ORDER

(i) The application is allowed.

(ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of rs.25,000/- with one or two sureties in the like amount.

(iii) The applicant shall report to the concerned police station on first Sunday of each month till framing of charge.

Application is allowed and stands disposed of.

(SMT.SADHANA S.JADHAV, J.)