

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1831 OF 2016

Dattatraya Damodar Ingole

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

Mr. Vinod Sangvikar i/b Mr. Umesh R. Mankapure Advocate for Applicant.
Mr. R. M. Pethe APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 15th NOVEMBER, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 26/03/2016 in crime no. 201 of 2016 initially for offence punishable under section 363 of the Indian Penal Code. After completion of investigation, charge-sheet is filed against the applicant for offence punishable under section 376 (1) of Indian Penal Code at Sangola Police Station.

2) It is the case of the prosecution that on 24/03/2016, Shahabuddin Mulani lodged a report at the police station that his daughter Ms 'X' aged about 16 years old had been to appear for her Secondary School Certificate

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examination. She did not return home. The informant had made inquiries about her at all known places and thereafter, lodged a report alleging that some unknown person for some unknown reason has lured her and has abducted her. On the basis of the said report, crime no. 201 of 2016 was registered at Sangola Police Station. It appears that on 25/03/2016, girl was found in the company of the present applicant at Bhokardan in the house of one Santosh Chavan. Thereafter, the statement of victim was recorded on 26/03/2016 and she had disclosed that on 22/03/2016, when she was returning home from the school, present applicant had expressed his love for her. Thereafter, he had abducted her in the Omni car along with one Dada Shinde and Mahadeo Khadtare.

3) It is specifically stated in the said statement that at the time of recording of the statement, her parents and the lady police officer were next to her. Her statement was also recorded in the presence of one lady Advocate Rajeshwari Kedar. Said statement is also signed by the parents of the victim. Statement of the victim was also recorded under section 164 of the Code of Criminal Procedure, 1973 and she has reiterated the allegations as made by her statement under section 161 of the Code of Criminal Procedure, 1973.

4) The learned counsel for the applicant submits that friends of the applicant had parted their company immediately. That from Pandharpur to Jalna, she had travelled with the applicant in a public transport bus. He has also drawn the attention of this court to the statement of the owner of the house namely Santosh Chavan who has stated that the applicant and the victim had taken the room on rent and were residing there. The victim had not made any statement before Santosh Chavan that she had been abducted or that she desires to call her parents. According to the learned counsel for the applicant, there was love affair between the applicant and the victim. That her parents were against the said marriage and moreover, she was a minor. According to the learned counsel for the applicant, victim had eloped with the present applicant, however, under coercion of her parents, lady Advocate and the police, she had disclosed that she had been abducted against her wish.

5) *Prima facie*, it appears that victim was acquainted with the present applicant. It appears that she had eloped with the applicant. She had attained an age of understanding. There is no material on record to even remotely indicate that she was taken away from the legal custody of her parents. Be that as it may, investigation is completed and charge-sheet is filed and the

applicant is in jail since 26/03/2016. Applicant deserves to be enlarged on bail. It is made clear that the observations made herein above are *prima facie* in nature and are restricted to an application under section 439 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
 - (ii) Applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 50,000/- with one or more solvent sureties in the like amount.
 - (iii) Applicant shall not enter into Taluka Sangola till the conclusion of the trial.
- 6) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)