

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2102 OF 2016

Amol Gajendra Irkar	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Priyal G. Sarda, Advocate for the applicant.
Ms. Veera Shinde, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 13th October, 2016.

P.C.

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 22.7.2016 in Crime No.136 of 2016 registered at Velapur Police Station, Dist. Solapur. The investigation is completed and the applicant has been charge-sheeted for the offences punishable under Sections 363, 366, 376(1) and 504 of the Indian Penal Code as well as under Sections 3 and 4 of the Protection of Children from Sexual Offences Act. The charge-sheet is filed on 19.9.2016.

2. It is the case of the prosecution that Gorakh Salunkhe lodged a report at the police station on 17.7.2016 alleging therein that his minor daughter aged about 17 years and 11 months had left the house without

informing her mother. That she had left the house on 5.7.2016 at about 6.30 p.m. They searched for her. The first informant was aware that the present applicant used to talk to his daughter intermittently and they had developed friendly relations. It is in these circumstances that he enquired with the parents and the relatives of the applicant about his whereabouts and they learnt that he was also missing from the house since 5.7.2016. He, therefore, suspected that his daughter was in the company of the applicant.

3. On 22.7.2016, the missing girl was found in the company of the present applicant at Karad. The statement of the victim was recorded on the same day. She has disclosed to the police that her age is 17 years and 11 months. That she has studied upto 12th Std. That she was acquainted with the applicant. She has submitted that the applicant had expressed his love for her and had informed her that he desires to marry her. He had also informed her that he is earning salary of Rs.27,000/- per month and he would keep her happy. According to the victim, on 5.7.2016, the applicant had called her on the cellphone and had told her that they should elope as he wants to get married to her. She has further disclosed that being lured by his assurance, she had left the house without informing her parents and that he had taken her on motorcycle. They had been to Karad. They had rented a room and were staying in that room till 21.7.2016. She has also disclosed

that during the said period, he had sexual intercourse with her against her wish. Hence, the applicant was arrested on 22.7.2016 and charge-sheet is filed.

4. It prima facie appears that the daughter of the first informant had left the house voluntarily. She was just 15 days short to attain majority. She had studied upto 12th Std. During the period 5th July to 22nd July, 2016, she had made no attempts to contact her parents. She was travelling with the applicant on the motor-cycle. It is not the case of the victim that she was kept under detention. It prima facie appears that there was a love affair between the young children and that they desired to get married. It is in these circumstances that further incarceration of the applicant would be unwarranted and unjustified.

5. The observations made hereinabove are prima facie in nature and shall not be considered 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 more sureties in the like amount.
- (iii) The applicant shall report to the concerned police station on

first Sunday of each moth till framing of charge.

The application is allowed and stands disposed of.

(SMT.SADHANA S.JADHAV, J.)