

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2265 OF 2016

Machindra Prakash Badade

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Satyavrat Joshi Advocate for Applicant.

Mr. S. H. Yadav APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 1st DECEMBER, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 26/07/2015 in crime no. 221 of 2015 registered at Yavat Police Station. Investigation is completed and charge-sheet is filed against the applicant for offence punishable under sections 376, 365, 344, 323, 506 of the Indian Penal Code.

2) On 29/07/2015, police of Saswad Police Station had received an information that a woman is chained in a room. The social workers were present. That the police along with social workers and other police had been to the spot. There, they found a woman who was chained to a bed. They released her and had inquired with her and at that time, she had disclosed that

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she is the mother of two children namely Aditya and Yash. Her husband had expired 5 years prior to lodging of the report. She was working at Bhangaon as casual labourer. Applicant was working there as mason. They got acquainted with each other. According to her, he used to give her favours without her asking for it. That he was possessive about her. He had threatened her that he would eliminate her children and under threat and coercion, had sexual intercourse with her on several occasions. She has further alleged that he had taken her to Saswad-Ambodi and in the room of one Mr. Borkar. It is also alleged that she was kept in confinement. That when he used to leave the house, he used to tie her with an iron chain and used to release her only after he returns home. On the basis of the said report, crime no. 221 of 2015 was registered against the applicant.

3) Perused papers of investigation. There are eye witnesses who had seen that the first informant was chained in the house. She was rescued by the police and the social workers and thereafter, her statement was recorded by the police. It *prima facie* appears that it is a case of having sex under threat and coercion.

4) Upon perusal of papers of investigation, it is clear that the applicant has

committed an offence as defined under section 375 of the Indian Penal Code which reads as follows:

“First – Against her will.

Secondly – Without her consent.

Thirdly – With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt”.

5) There is more than sufficient incriminating material to substantiate the contentions of F.I.R. It is a matter of fact that she had to be rescued by the police. The Statement of the mother-in-law would indicate that first informant was residing next to her house. She was knowing the atrocities met to her daughter-in-law by the applicant, however, under threat and coercion, she could not report the same.

6) Taking into consideration the papers of investigation and the fact that the woman was rescued by the police and social workers when she was chained, this Court is not inclined to grant bail.

7) Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)