

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2271 OF 2016**

Dattatraya Uttam Kolekar

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Aniket U. Nikam i/b. Mr. Ashish Satpute for the Applicant.
Mr. S.S. Pednekar, APP for the Respondent -State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : NOVEMBER 24, 2016.

P. C. :

1. Heard the learned counsel for the Applicant and the learned APP for the Respondent-State. Perused the papers.

2. This is an application under section 439 of the Criminal Procedure Code, 1973. The Applicant herein is arrested on 5th May, 2016 in Crime No.265 of 2015 registered at Khed Police Station. The investigation is completed and the chargesheet is filed against the present Applicant for offences punishable under Sections 363, 366 A of the Indian Penal Code and under Sections 3, 4, 5, 6, 9 and 10 of the Protection of Children from Sexual Offences Act, 2012.

3. It is the case of the prosecution that on 30th August, 2015 Balkrishna Kohinkar lodged a report at the police station alleging therein that on 29th August, 2015 when he returned home and could not find his daughter at home he enquired about her with all relatives. At about 10.00 p.m. the first informant checked the cellphone of his daughter and saw that there were several messages exchanged between his daughter and the present Applicant. Hence, he concluded that his daughter had left the house under the influence of the present Applicant or that he has abducted her. On the basis of the said report Crime No.265 of 2015 was registered against the Applicant for offences punishable under sections 363 and 366 A of the Indian Penal Code.

4. The Applicant and the daughter of the first informant were traced on 5th May, 2016 at Lonavala. They were brought by the police to Khed Police station and her statement was recorded on the same date. She had admitted before the police that she was in love with the present Applicant. In fact, they had decided to elope but subsequently had changed their mind. According to her, she had left the house voluntarily with the Applicant. They had been to Chakan and thereafter they left for Talegaon Dhamdhare and stayed there with friend of the Applicant for almost one month. Thereafter they

proceeded to village Bhaje and resided in a rented room as husband and wife.

5. The victim was examined by Doctor on 7th May, 2016. She gave the history before the Doctor. As per the history given by the victim in her own language she knows the accused Mr. Dattatray Uttam Kolekar (25 years old) since childhood. He proposed to her one year back and they were in a relationship since then. He got married to another girl one year back and on 29th August under the pretext of marrying the victim he called her and they both eloped from home. On the next day they got married in a temple in Bhivar. This marriage was not registered and not witnessed by anyone. For one month they stayed in Bhivar, then for the next seven months they stayed in Karla Bhaje as husband and wife. She had multiple episodes of consensual penetrated sexual vaginal intercourse.

6. Taking into consideration the papers of investigation, more particularly the statement of the victim and the history given by the victim to the Medical Officer, this Court is of the opinion that the Applicant deserves to be enlarged on bail.

7. It is made clear that the observations are restricted to an application under section 439 of the Criminal Procedure Code and shall

not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

O R D E R

- (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 not enter into the jurisdiction of Khed Police station till the conclusion of the trial.

8. The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)