

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 2438 OF 2016

Shivaji Baliram Kavade. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Jaydeep D. Mane, advocate for Applicant.

Mr. Rajan Salvi, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : DECEMBER 20, 2016**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 9/11/2016 in Crime No. 764 of 2016 registered at Mohol Police Station for offence punishable under Section 354(D) of the Indian Penal Code and section 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3 It is the case of the prosecution that on 19/10/2016 Ms. X who is about 15 years old lodged a report at the police station that the applicant herein was stalking her. On 17/9/2016 in the afternoon at about 1 p.m. the applicant had allegedly whistled and called her and had suggested that it was an isolated place and therefore, they could meet each other. She raised hue and cry and called her maternal uncle who rushed to the spot. Upon seeing her maternal uncle, the applicant had allegedly fled from the scene of offence. According to the first informant, after completing her Secondary School Certificate Examination, she wanted to pursue education further, but since the applicant was stalking her, her parents had discontinued her education and that she was made to stay at maternal uncle at village Yavali. It is also stated in the first information report that when she was leaving village Yavali, the applicant had obstructed and had informed her parents that he desires to get married to the first informant. He had also threatened that if they try to settle marriage of the first informant elsewhere, he would upload her images on social media and WhatsApp. It is in these circumstances that the

applicant is being prosecuted for an offence punishable under section 354D of the Indian Penal Code.

4 The learned Counsel for the applicant submits that in fact, it is a case of love affair and although the incident had taken place on 17/9/2016, the first information report is lodged on 19/10/2016 only, when the applicant had disclosed to her parents that he desires to marry her. The learned Counsel vehemently submits that even before filing of the first information report, the first informant had made numerous calls to the applicant.

5 Be that as it may. The applicant has been in custody for more than one month. The applicant deserves to be enlarged on bail at present. However, the applicant shall not enter into village Yevati as well as Yavali till conclusion of the trial.

6 It is made clear that the observations made herein above are prima facie in nature and are restricted to the application under

section 439 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of trial.

7 Hence, following order is passed :

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/- and one or more solvent sureties in the like amount.
- (iii) The applicant shall not enter into village Yevati as well as Yavali till conclusion of trial.
- (iv) The applicant shall not tamper with the evidence.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)