

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 47 OF 2017

Swapnil @ Aakash Ravindra Sutar... Applicant
vs.
The State of Maharashtra ... Respondent

Mr. Y.K.Choudhari, for the applicant.
Mr. Arfan Sait, APP, for the State.
Mr. K.S.Bale, PSI, Powai Police Station, Mumbai, present.

CORAM : SMT. SADHANA S.JADHAV,J.
DATE : 10th January, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 29.8.2016 in Crime No.420 of 2016 registered at Powai Police Station. The investigation is completed and charge-sheet is filed against the accused-applicant for the offences punishable under Sections 377, 506 read with Section 34 of the Indian Penal Code and Section 66(e) of Information Technology Act,2000.

2. It is the case of the prosecution that on 29.8.2016, Santosh Jadhav lodged a report at the police station alleging therein that his sister Ranjana Utekar and her son reside with him. That Raj happens to be the son of his sister. He is a student of I.E.S. School, Milind Nagar, Vikhroli. That the wife of the first informant had noticed that Raj was not attending the school for the preceding 4 – 5 days and therefore, the first informant enquired with him about the same. That on 28.8.2016, the mother of Aakash i.e. Jhumribai had been to the house and had informed the first informant that Raj is blaming Aakash for

misbehaving with him. The first informant decided to enquire into the same and in that course, Raj had disclosed to him that on 15.8.2016, Aakash @ Swapnil i.e. the present applicant had taken him to the public lavatory and had performed unnatural sex with him. It is unfortunate that the act was recorded by a third person and was circulated on social media like WhatsApp, etc.

3. Perused the statement of the victim. he has narrated the trauma which he had to undergo at the hands of the present applicant. He has specifically stated that the video clip was circulated by accused Nos. 2 and 3. The victim had to undergo the trauma. His statement was also recorded in a question & answer form. he has specifically stated that he was taken to the public lavatory under the pretext that accused No.2 Raj had called him. They have circulated the video of ghastly act. Perused the medical case papers. There is delay in lodging the FIR because the victim was not in a state of mind to disclose the trauma which he had undergone at the hands of the accused persons. The incident is dated 15.8.2016 and the victim has been examined on 29.8.2016.

4. Taking into consideration the ghastly act and the role attributed to the present applicant, he does not deserve to be enlarged on bail. Hence, the application being sans merit, stands rejected.

(SMT.SADHANA S.JADHAV,J.)