

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

CRIMINAL BAIL APPLICATION NO. 343 OF 2017

Vinod Keshav Waghela.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Ram Udar Jha, advocate for Applicant.

Ms. J.S. Lohokare, APP for State.

Mr. Dhumal, PSI, V.P. Road Police Station, Mumbai.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : MARCH 21, 2017**

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 12/7/2016 in Crime No. 319 of 2016 registered at V.P. Road Police Station on 11/7/2016. The investigation is completed and charge-sheet is filed

against the applicant for offence punishable under section 376, 328, 504, 506 of the Indian Penal Code and under section 4, 8, 10 of the Protection of Children from Sexual Offenses Act, 2012.

3 The applicant herein happens to be the biological father of the victim Ms. X. On 11/7/2016 Ms. X lodged a report at the police station that in the year 2014 she returned home from school. Her mother was not at home. The applicant herein had given her food. She felt dizzy after consuming the food and went to sleep. She suddenly realised that she was feeling pain in stomach as well as vagina and she opened her eyes and shocked to see her father sexually abusing her. She was threatened by her father.

4 According to the complainant, every Saturday and Sunday she used to stay with her maternal aunt Savita Parma. Soon thereafter, she had disclosed the trauma, which she had undergone at the hands of her father, to her maternal aunt. That her maternal aunt had telephonically informed her mother about the conduct of the applicant. Her mother

had confronted the applicant and he falsified the victim by stating that he is in fact her father. He had also threatened the mother and daughter of dire consequences. The applicant had indulged into similar act multiple times.

5 On 10/7/2016 she had been with her mother to the house of her maternal uncle. That they returned home at about 10.30 p.m.. At that time, the applicant had not only abused, but had assaulted the complainant and her mother. He had threatened her that in the eventuality, she disclosed the incident to anybody, she would be assaulted further. Thereafter, mother and daughter gathered courage and had approached police station. On the basis of her report Crime No. 126 of 2016 is registered. Statement of the victim and her maternal aunt are also recorded under section 164 of the Code of Criminal Procedure, 1973 and they have reiterated the same history.

6 The victim was subjected to clinical examination. That she had disclosed to the doctor as per her first information report. She had

disclosed that she was subjected to sexual abuse by her father on several occasions. The applicant was also subjected to the clinical examination and he had admitted the said act and had admitted that he had sexually abused his daughter. The opinion given by the doctor is as follows :
“Evidence of sexual assault cannot be ruled out.”

7 The learned Counsel for the applicant vehemently submits that there is inordinate delay in lodging FIR and the applicant deserves to be enlarged on bail on the said ground. It is also submitted that when confronted by the mother, the applicant had denied to have sexually abused his daughter. The learned Counsel for the applicant submits that there was quarrel between the husband and wife and he has been falsely implicated.

8 At this stage, it would not be necessary to determine as to whether there is corroborative evidence, and the statement of the victim who happens to be the daughter of the applicant deserve to be taken into consideration. Inordinate delay in lodging FIR cannot be fatal to the

prosecution atleast in cases under section 376 of the Indian Penal Code as the victim has to think of several issues before she approaches the police station. It tarnishes the images of the family and moreover, when the accused happens to be the father, she is not expected to rush to the police station. It is doubtful as to whether the mother had also given her support in 2014, although she had learnt about the same. The learned APP submits that the mother and daughter had tried to save the family.

9 Taking into consideration the submission of the victim, mother and her maternal aunt, this Court is of the opinion that no case is made out for grant of bail .

10 The application being sans merits stands rejected and disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)