

Dond

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 350 OF 2017

Ajay Vijay Nikalje

..Applicant.

Vs.

The State of Maharashtra

..Respondent

Ms. Archana Rupwate a/w Aman Khan for Applicant.

Mr. Arfan Sait APP for State.

CORAM: A.S. GADKARI, J.

DATE : 6th April 2017.

P.C.

1] This is an application under Section 439 of Cr. P.C. for bail in CR No.519 of 2016 dated 09.11.2016 registered with Powai Police Station, Mumbai under Sections 363, 354 of the Indian Penal Code and Sections 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act.

2] The first information report is lodged by the father of the victim girl. At the time of incident, the victim girl was aged about 16 years.

With a view to protect the identity of the victim girl and in consonance with the provisions of Section 228A of the Indian Penal Code, the material particulars giving rise to filing of the present crime are not mentioned herein.

It is the prosecution case that, the applicant abducted the victim girl who was aged 16 years at the relevant time and committed the alleged act as contemplated under Section 354 of the Indian Penal Code. During the course of investigation, the applicant was arrested on 12.11.2016. After completion of investigation, the police have submitted chargesheet on 7.1.2017.

3] I have perused the chargesheet annexed to the application. After perusal of the first information report and the statements of the witnesses, it clearly reveals that it is the victim girl who took initiative in the love affair with the applicant and as it was learnt by her that her parents were in the process of fixing her marriage with somebody else to which she did not agree she eloped with the applicant. In the statement of victim girl dated 10.11.2016 and subsequent statement dated 21.11.2016, there is no reference of any sexual assault on her. It further appears from the record that the victim girl though legally minor did attain the age of understanding and as stated earlier at her request the applicant eloped with her. The

provisions of POCSO Act are applied to the present crime as the victim girl was minor. The applicant is aged 19 years only and is not a habitual offender and there are no antecedents at his discredit. In view thereof, the applicant has made out a case for his release on bail.

Hence, the following Order:

- (i) The applicant be released on bail in CR No.519 of 2016 dated 09.11.2016 registered with Powai Police Station, Mumbai on his furnishing PR bond of Rs.15,000/- with one or more local sureties in the like amount.
- (ii) The applicant shall attend all the dates before the Trial Court.
- (iii) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

4] The Application is allowed in the aforesaid terms.

(A.S. GADKARI,J.)