

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 475 OF 2017

Darshan Santosh Pawar	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Ms. Anjali Patil, Advocate for the applicant.

Ms. S.S.Kaushik, APP, for the State.

Mr. G.S.Gamre, API, Navghar Police Stn. Mumbai present.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 21st March, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 29.3.2016 in Crime No.68 of 2016 registered at Navghar Police Station. The investigation is completed and charge-sheet is filed against the applicant for the offences punishable under Sections 376, 354-D, 328, 506 read with Section 34 of the Indian Penal Code and under Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act.

2. It is the case of the prosecution that on 29.3.2016, Ms.`X' lodged a report at the police station alleging therein that she was in love with the applicant since her school days i.e. since she was in 9th Std. According to her, on 15.4.2015, the applicant had called her to his house in the Mhada

Colony at Mulund. He had sexual intercourse with her. In April, 2015, he had also visited her house if she was alone at home and they had sexual intercourse. It is also alleged that accused No.2 – Sagar Sawant, happens to be a friend of the present applicant and sometimes the applicant used to take the victim to the house of Sagar and had sexual intercourse with her. Sagar had informed the victim that the present applicant had relations with many other girls since 2015. Sagar had sexually abused her and ravished her on more than one occasion.

3. This Court by an order dated 16.2.2017, had enlarged Sagar Sawant on bail. The allegation under Section 328 of the IPC is levelled against the co-accused Sagar. That in her statement under Section 164 of Cr.P.C. the victim has alleged that the applicant herein had only touched her inappropriately, and outraged her modesty. He had demanded physical relations and had proposed to her. However, she had turned down the proposal and thereafter the applicant had introduced Sagar to her and then Sagar had sexual relations with her. In her statement under Section 164 of Cr.P.C., she has further stated that Sagar had conveyed to her that Darshan wants to have physical relations with her and thereafter Darshan had sexual intercourse with her. She has further stated that her parents had approached the parents of the present applicant with a proposal of marriage and he had

refused to marry her.

4. The learned counsel for the applicant vehemently submits that only because the parents of Darshan had refused to accept the proposal, she had lodged a report under Section 376 of the IPC. It is also submitted that there is inherent inconsistency in her statement under Sections 161 and 164 of Cr.P.C. That the co-accused has been enlarged on bail after taking into consideration the statement of Nandkumar Chavan, who is the owner of the said room. In fact, the said room was locked by the owner and the keys were left with Mr. Mandlik. There is no material on record to show that the present applicant or the co-accused had taken the keys from Mandlik. That the statement of Mandlik is not recorded.

5. Be that as it may, it prima facie appears that the applicant had refused to marry the victim and thereafter, the report is lodged. The applicant has been in custody for almost one year. The investigation is completed and charge-sheet is filed. Hence, the applicant deserves to be enlarged on bail.

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/- with one or more solvent sureties in the like amount.

(iii) The applicant shall report to the concerned police station on first Sunday of each month till framing of charge.

Application is allowed in the above terms and stands disposed of.

(SMT. SADHANA S.JADHAV, J.)