

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
**CRIMINAL BAIL APPLICATION NO. 705 OF 2016**

|                                     |            |
|-------------------------------------|------------|
| Ranukumar Chhedi Kori (Harijan) ... | Applicant  |
| Vs.                                 |            |
| The State of Maharashtra ...        | Respondent |

Mr.Jairam R. Dube, Advocate for the applicant.  
Mrs.Veera Shinde, APP, for the State.

**CORAM: SMT.SADHANA S.JADHAV, J.**  
**DATE : 15<sup>th</sup> March, 2017.**

**P.C.**

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 7.4.2015 in Crime No.178 of 2015 registered at Manpada Police Station on 31.3.2015. The investigation is completed and charge-sheet is filed.

2. It is the case of the prosecution that on 31.3.2015, Ram Anuj Singh has lodged a report at the police station alleging therein that the complainant is the father of Ms.`X' who is about 14 years old. That on 30.3.2015, his wife had called him on the cellphone and informed him that their daughter has not returned from the tuitions. They enquired about her. In the meanwhile, their neighbour Abhishek informed the first informant

that on 30.3.2015, he had seen Ms.X in the company of the present applicant and they were proceeding towards Pisavli. The first informant had enquired with the family members of the applicant and they had informed him that for the past 3 – 4 months, he is residing at Surat. He therefore suspected that his daughter has been taken away to Surat by the present applicant. On the basis of the said report, Crime No. 178 of 2015 was registered under Section 363 of the Indian Penal Code. On 5.4.2015, Ms. X called upon her father and informed him that she is at Surat. Her father along with the police had been to Surat on the given address. The victim was rescued.

3. The statement of the victim was recorded on 7.4.2015. She informed the police that she is studying in 9<sup>th</sup> Std. Her date of birth is 16.6.2001. She disclosed to the police that the applicant herein was working with her father. They were acquainted with each other. he had left the job and was working elsewhere. That on 30.4.2015, he had called upon the victim to have a chat. He had taken her to Kalyan Railway Station and that they had been to Dadar Railway Station and they had taken a train to Surat. At Surat, he had locked her up in a room. They were residing as husband and wife. He had sexual intercourse with her. That while leaving for his job, he used to lock the room and she was not allowed to contact

anybody. On 5.4.2015, she had called her father on his cellphone.

4. The victim was taken for medical examination. She had disclosed to the doctor that the applicant had sexual intercourse with her against her wish. That they had sexual intercourse six months ago in Dombivli.

5. The learned counsel for the applicant submits that in fact the applicant and the victim were in love with each other. The father of the victim has falsely implicated the applicant in the present case since he did not approve of the love affair. It is submitted that the complainant belongs to Kshatriya community, whereas the applicant belongs to Scheduled Caste and therefore the applicant has been falsely implicated. It is also submitted that the victim had voluntarily left the house in the company of the applicant. That six months prior to the incident also they had sexual intercourse.

6. Perused the statement of the victim recorded under Section 164 of Cr.P.C. She has specifically stated on oath that she was forced to accompany the applicant under threat and coercion. That she was forced to get married to the applicant and he had threatened her of dire consequences in the eventuality that she tried to flee. That she had turned down his proposal a few days ago and therefore he had forced her to have sexual

intercourse. That she was assaulted by the applicant. It is also stated that everyday before leaving the house, he used to tie her to a chair and open the room only in the evening. The investigating agency has also recorded statement of a neighbour of the applicant at Surat Mrs. Ranjana Pandey. She has disclosed that the applicant used to lock the room while leaving for his job.

7. Taking into consideration the fact that the victim was hardly 14 years old at the time of incident and that she did not understand the consequence of rape, the consent, if any, cannot be taken into consideration at this stage. Moreover, upon considering the statement of the victim under Section 164 of Cr.P.C., it cannot be said that the applicant and the victim were in love with each other as he had not only subjected her to sexual abuse but had also kept her in confinement. In the peculiar facts and circumstances of the case, the applicant does not deserve to be enlarged on bail. The application being sans merit, stands rejected.

8. The learned Sessions Court shall not be influenced by the observations at the time of trial and restrict an application under Section 439 of Cr.P.C.

Application stands rejected.

**(SMT. SADHANA S.JADHAV, J.)**