

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

BAIL APPLICATION NO. 893 OF 2017

Raju @ Ram Krishna B. Patra. ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr. Vikram R. Sutaria, advocate for applicant.

Mrs. P.P. Shinde, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : OCTOBER 5, 2017**

P.C.

1 Heard the learned Counsel for the applicant and the learned APP
for State.

2 This is subsequent bail application filed by the applicant seeking
enlargement on bail under section 439 of the Code of Criminal Procedure,
1973. The earlier application was withdrawn before this Court on 9/1/2017.
In the peculiar facts of the case, this Court had requested the Special Judge to
make every endeavour to conclude the recording of evidence in Sessions Case
No. 582 of 2015 within 7 months from the date of framing of charge. The

applicant is in custody since 25/9/2015.

3 The learned Counsel submits that till today charge is not framed. It is also submitted that there is a change in circumstances.

4 It is the case of the prosecution that on 22/9/2015 Deepa Gaikwad lodged a report at the police station alleging therein that she is the mother of Ms. X. That the mezzanine floor of her hut was sold by her mother 12 years ago to one Udaymaster. He used to give that room on rent. It is alleged that in the month of June, 2014, the complainant has sent her daughter aged 14 years to her brother's house at Ambivali. Her relatives contacted her and informed her that they had learnt from the victim girl that she was sexually abused by the present applicant who was staying on the mezzanine floor in their house. She had disclosed about the incident which had taken place in May, 2014 and alleged that she had been ravished by the present applicant.

5 It is also alleged that the complainant had learnt from her niece on 20/9/2015 that her daughter had informed her friends that her mother was sending her for social rape and had made it a source of her income. It is also

alleged that upon confronting the victim, she had disclosed that in the month of August, 2015 on few occasions, the applicant herein had followed her to school and then forcibly taken her in white colour Indica car and according to the complainant, the victim was sexually abused in May, 2014 and August, 2015. On the basis of the said report, Crime No. 394 of 2015 was registered in the police station against the applicant.

6 The accused had specifically contended that in the month of August 2015 he was at Mohammadpur, Belda, District Paschim Medinipur, which is in Orissa. On 17/8/2015 also he was in West Bengal. Hence the Investigating agency had called for the call detail records, which were not before the court at the time of first hearing.

7 It is seen from the record that the statement of the grand-mother of the victim was recorded in the course of investigation. She has stated that the applicant used to tease the victim as she was fat. That some time in May, 2014 she had sent her grand-daughter for drying the clothes on the terrace. She did not return soon and therefore, she went up-stairs and she had firstly noticed that the applicant and the victim were in closed room for a prolonged period. That she saw that her grand-daughter was dressing up and that the

applicant was on the terrace. It is seen from her statement that she had disclosed about the same to her daughter-in-law but not to her own daughter(complainant) and the applicant was asked to vacate the room immediately. She had also disclosed that after the incident, the victim had discontinued to go to school.

8 The statement of the victim that she was abducted by the applicant on her way to school would be falsified by the fact that the school attendance sheet would show that she was absent from school only on 17/8/2015.

9 The medical case paper also falsify the case of the victim. The history narrated by the victim to the doctor is also at variance from her statement, which was recorded by the police. She had disclosed before the doctor that she was lured by giving chocolate and was beaten by belt. However, the said material is not disclosed to the police.

10 The statement of Akanksha and Khushbu are not recorded as according to the first informant, the victim had informed them that her mother i.e. the complainant is inducing her to engage in the said activities.

11 The learned Counsel for the applicant submits that there was a love affair between the applicant and the victim. It is also submitted that the mother of the victim had taken handloan from the applicant. That he was insisting upon her to return the same and therefore, he has been falsely implicated.

12 The learned Counsel for the applicant has vehemently submitted that it is a case of false implication. The learned Counsel by placing implicit reliance on the papers of investigation has submitted that there was no physical intimacy between the applicant and the victim. It was only love affair and in any case, the applicant was not residing in the victim's house since May, 2014 i.e. after her grand-mother had suspected some intimacy between the victim and the applicant.

13 In view of this, the applicant deserves to be enlarged on bail. The observations made herein above are prima facie and are restricted to the bail application only. The trial Court shall not be influenced by the same while deciding the trial. Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The applicant be released on bail on executing P.R. Bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.
- (iii) The applicant shall not tamper with the evidence.
- (iv) He shall report before the Special Court on each and every stipulated date.
- (v) The applicant shall not leave Mumbai without the prior permission the Special Court.

14 The Application is disposed of accordingly.

[SMT.SADHANA S. JADHAV,J]