

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 945 OF 2016

Rakeshkumar Maniram Gautam ...	Applicant
Vs.	
The State of Maharashtra ...	Respondent

Ms. Anjali Patil, Advocate for the applicant.

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

Mr. Shriram Bhosale, PSI, MhlB Colony Police Station present.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 23rd January, 2017.

P.C.

Heard. This is an application under Section 439 of Cr. P.C. The applicant herein is arrested on 17.9.2015 in Crime No.333 of 2015 registered at MHB Colony Police Station for the offences punishable under Sections 376 and 420 of the Indian Penal Code. The investigation is completed and charge-sheet is filed on 7.12.2015.

2. It is the case of the prosecution that on 13.9.2015, the victim was taken to Shatabdi Hospital. She delivered a female baby. She was examined by the doctor. The doctor had observed that the patient does not give “correct” history of being married. The history recorded by the Doctor was “Also she does not wish to have this child. This patient is 7 – 8

months Amenorrhea unregistered. Kindly make MLC.”

3. On the same day, upon enquiry, the victim had disclosed to the police that she was acquainted with the present applicant. Her mother is working at Bhayendar in a private company. The applicant had proposed to her. They were in love with each other. That he had assured the victim that they would get married. That they had sexual intercourse at various places. According to her, since they were getting married, they had sexual intercourse. She had conceived pregnancy. At that stage he had assured her that he would get married to her. It is alleged that till May 2015, he was staying at Mumbai and thereafter he had gone to his native place. They were in contact with each other. he was avoiding to get married to her and, therefore, she felt cheated. She has further stated that since one month prior to lodging of FIR, they were not in contact with each other.

4. Prima facie, it appears that the applicant was in love with the victim. The victim has not stated either before the police or in her statement under Section 164 of Cr.P.C. that she was coerced by the present applicant to have sexual intercourse or that there was forcible sexual intercourse without her consent. No report was lodged till she was taken for the purpose of delivery. The C.A. report also shows that the victim and

the present applicant are concluded to be the biological parent of the baby delivered by the victim girl.

5. The learned counsel for the applicant submits that as on today also the child is being taken care of by the parents of the applicant. Prima facie, it appears to be a case of consensual sex. The victim was about 20 years old. The applicant has been in custody for more than one year. It is in these circumstances that the applicant deserves to be enlarged on bail.

6. The observations herein are restricted to an application under section 439 of Cr.P.C. and the same shall not be taken into consideration for the purpose of quahing of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iii) The applicant shall report to the concerned police station on first and 3rd Sunday of each month till framing of charge.
- (iv) Upon failure to report on any two consecutive dates, the prosecution

is at liberty to file an application under Section 439(2) of Cr.P.C. and the order deserves to be recalled.

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

(SMT. SADHANA S.JADHAV, J.)