

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

CRIMINAL BAIL APPLICATION NO. 1321 OF 2016

Rahul Babab Pawar. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. S. Shaikh i/b. Ms. Sureeta Singh, advocate for Applicant.

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

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : JANUARY 11, 2017**

P.C.:

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

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 15/2/2016 in C.R. No. 35 of 2016 registered at Govandi Police Station on

14/2/2016. The investigation is completed and charge is filed against the applicant under section 376(2) of the Indian Penal Code.

3 It is the case of the prosecution that on 14/2/2016 Mrs. Shamal Jadhav had checked the call details of her cell phone and found that there was conversation between her daughter and some unknown person. The same was recorded. She heard the recording and enquired with her daughter about the same. She was convinced that her daughter is in contact with same boy. Mrs. Jadhav had also enquired with the friend of her daughter, namely Ishita, who had disclosed that her daughter Ms. X is in contact with the present applicant and is passing through the state of mental depression. Upon further enquiry, the daughter of the first informant had disclosed that on 6/2/2016 the present applicant had called her to the house of his sister. The said house was locked. He opened the house. He proposed to her. She was convinced that he is her boy friend and thereafter, it is alleged that the applicant had sexual intercourse with

Ms. X. The first informant had verified all the details as stated by her daughter. The first informant has further stated that it was Ishita who had insisted upon her to accept the proposal of the present applicant and therefore, her daughter had accepted the proposal, but she had no knowledge about the consequences.

4 After registration of the offence, the statement of the victim was recorded. She had reiterated the history given by the first informant. In answer to question No. 9, she has admitted that she was in contact with the present applicant on the cell phone of her friend Ishita as well as the cell phone of her mother and sometimes on the PCO. This would be sufficient indication to show that the survival was in contact with the applicant on several occasions and in all probabilities, they were in love. The victim was examined before the doctor. The victim has narrated the same story to the doctor.

5 Taking into consideration the fact that this was an outcome of the love relationship between the victim and the applicant, this Court is of the opinion that the applicant deserves to be enlarged on bail. Moreover, the first informant has candidly stated that she had suspected that her daughter was in contact with some boy i.e. the present applicant. The whole episode has come to light only because the first informant had suspected that her daughter is in love with someone.

6 Taking into consideration the material collected in the course of investigation, the statement of the victim, the statement of the friend of the victim, this Court is inclined to enlarge the applicant on bail.

7 These observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and shall not be considered at the time of deciding the application for discharge or quashing of FIR or at the time of trial.

8 Hence, the following order is passed :

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/- and one or more sureties in the like amount.
- (iii) The applicant shall report to the concerned police station on 1st Sunday of each month till framing of charge.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)