

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

CRIMINAL BAIL APPLICATION NO. 1372 OF 2016

Salman Salim. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Khan Fakhruddin, advocate for Applicant.

Mr. Deepak Thakare, 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 30/12/2015 C.R. No. 828 of 2015 registered at D.N. Nagar Police Station, Andheri(West). The investigation is completed and charge-sheet is

filed against the applicant for offence punishable under section 376, 363, 354 of the Indian Penal Code and under section 4, 8, 12 of the Protection of Children from Sexual Offences Act, 2012. The date of birth of the victim is 31/12/1999.

3 It is the case of the prosecution that on 30/12/2015, the mother of the victim namely, Farida Begam Salim Sayyed lodged a report at the police station that the present applicant was stalking her daughter for quite some time and expressing his love for her. On one fine day, she accepted the proposal. That they were in love with each other. On 16/12/2015, the applicant is alleged to have taken her daughter at Varsova Beach where they had sexual intercourse. Thereafter, they had been to Varsova beach and had sexual intercourse. According to the first informant, since her daughter was 16 years old, they could not get married. That the first informant had been to the house of the applicant with the proposal and at that time, there was quarrel between the family members of the applicant and the first informant

and therefore, she has arrived at a conclusion that the applicant had cheated the survivor and had taken undue advantage of her minority and had sexual intercourse with her under the pretext of getting married.

4 The learned Counsel for the applicant vehemently submits that in fact the applicant was in love with the victim. That both the families had initially decided to get them married. However, subsequently, there was some different of opinion between the family members of the applicant and the family members of the victim and therefore, the first informant had lodged the report. The learned Counsel had also presented photographs of the applicant alongwith the victim for the perusal of this Court. It appears that they were in love. Taking into consideration the fact that there was love affair between the applicant and the victim and that because of some quarrel between the family members, the prosecution is initiated.

5 Taking into consideration the material collected in the course of investigation, the statement of the victim, this Court is of the opinion that the applicant deserves to be enlarged on bail.

6 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.

7 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.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)