

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1396 OF 2016

1. Ajmat Chotan Ali Shaikh)	
2. Khurshid Mohammadidu Alam Shaikh)	Applicants
Vs.	
The State of Maharashtra ...	Respondent

Mr.Laxmikant M. Shukla.Advocate for the applicants.
Ms. Veera Shinde, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 9th March, 2017.

P.C.

Heard. This is an application under section 439 of Cr.P.C. The applicants herein are arrested on 2.4.2015 in Crime No.179 of 2015 registered at Manpada Police Station. The investigation is completed and charge-sheet is filed against the applicants for the offences punishable under sections 366A, 367, 342, 376D, 506 read with Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that on 2.4.2015, Ms. 'X' lodged a report at the police station alleging therein that she is studying in Shantaam Bhiva Vaze School at Mangaon in Std. VIII. That on 1.4.2015 at about 11.30 p.m., she had been to answer nature's call. While she was returning to her house, the present applicants who were residing in the same

building, approached her, gagged her mouth and had dragged her to their room. They had sexually abused her. Thereafter they had ravished her against her wish and after the act was over, they had pushed her and threatened her of dire consequences. On the next day in the morning, she was still in a stage of trauma upon enquiry by her mother, she disclosed the incident to her and thereafter her mother had accompanied her to the police station and a report was lodged, on the basis of which Crime No.179 of 2015 was registered. The date of birth of the victim is 27.1.2001. The victim was sent for medical examination on the same day. She had disclosed the history to the doctor that she had been kidnapped by the present applicants and she was taken to the building opposite her house where they stayed. Both of them had sexual intercourse with her. They had used condoms. That the supplementary statement of the victim was recorded on 3.4.2015, She has reiterated her narration. The only improvement is that soon after she had left the room of the accused persons, she saw her mother and her neighbours standing outside the room. They had enquired with her. She got scared and disclosed the incident to her mother and neighbours.

3. The learned counsel for the applicant submits that in fact it was a consensual act. That the victim was in love with one of the accused. The

mother and neighbours had learnt about the fact that she had been to the house of the accused and, therefore, she has concocted the story that she was ravished by the applicant. The fact that the victim was hardly 14 years old, the consent of the victim cannot be taken into consideration. It is the contention of the victim that she has been ravished by both the accused persons. As on today, no corroboration is required. The statement of the victim would be the most incriminating material against the applicants. Hence, the applicants do not deserve to be enlarged on bail.

4. The application being sans merits, stands rejected.

(SMT. SADHANA S.JADHAV, J.)