

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1476 OF 2016

Bhure Rangile Verma

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Arjun S. Pawar i/b Ms. Phalguni Banerjee
Advocate for Applicant.

Mr. Prosper D'souza for Intervener

Ms. Veera Shinde APP for the State.

Mr. G. K. Targa, PSI Central Police Station,
Ulhasnagar.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 7th MARCH, 2017.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 25/09/2015 in crime no. 178 of 2013 registered at Central Police Station, Ulhasnagar for offence punishable under sections 363, 36, 120 (B) r/w 34 of the Indian Penal Code and section 3 & 4 of Protection of Children from Sexual Offences Act, 2012. Investigation is completed and applicant is also charge-sheeted for offence

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punishable under section 376 of the Indian Penal Code.

2) It is the case of the prosecution that the victim Ms. 'X' had left the house on 18/02/2013 for attending her classes. She did not return home. The mother of the victim had searched for her at all possible places and thereafter had lodged a missing complaint. It is the case of the prosecution that on 18/02/2013, sister Chiraita and cousin Malikram, of present applicant had met the victim outside her class and they had asked her to accompany them to Uttar Pradesh. She wanted to inform her parents about the same, however, they influenced her to defer the same and that she was assured that they would inform her parents subsequently. They had been to Kalyan and they had taken Lucknow Super Fast Express and had reached Uttar Pradesh on 19/02/2013. They met the present applicant there.

3) They had been to village Chinchdi. She resided there for about 15 days. She had met the applicant on railway station itself on 19/02/2013. From there, they had been to Chandi and had resided with maternal aunt of the present applicant. From Chandi, applicant had again taken the victim to the house of Malikram. From there, she was taken to the house of maternal cousin of the

applicant namely Rajendra Verma at Nepal. She resided at Nepal for 6 days. She was not permitted to contact her parents or anybody else. She was fully aware that her parents were searching for her. Her father was knowing the cellphone number of another cousin of the applicant namely Raju Verma. The father of the victim had contacted Raju Verma. The father of the victim was informed that he should go to Ludhiana to the house of Durgaprasad Verma and he would be able to give the address of the victim. The parents had been to Ludhiana, from there they were directed to Chinchdi. The victim was finally traced on 26/03/2013 at village Chinchdi.

4) Statement of the victim has been recorded. She has stated that she had accompanied Chiraita and Malikram as she was acquainted with them. She had no knowledge that she would be meeting the present applicant at Uttar Pradesh. That she was detained by present applicant and was taken from one place to another. It is also transpired in the course of investigation that applicant had sexual relations with the victim against her wish.

5) The learned counsel for the applicant vehemently submitted that in fact

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it is the case of love affair and that the victim had eloped from her house voluntarily in order to meet the present applicant. It is also submitted that while leaving the house, the victim had carried Rs. 12,000/- and her clothes along with her which would clearly indicate that the victim had voluntarily left the house. It is further submitted that in any case, applicant cannot be held liable for offence punishable under sections 363 or 366 of the Indian Penal Code as he was not present at Ulhasnagar when she accompanied Malikram and Chiraita. That Chiraita and Malikram have been enlarged on bail by the Sessions Court. The learned counsel therefore, prays that the applicant be enlarged on bail.

6) The learned counsel Mr. D'Souza appointed to espouse the cause of the complainant through legal aid, rightly submits that the date of birth of the victim is 11/02/1999 and therefore, it cannot be said that the victim had attained the age of understanding and therefore, it would be a case of a Statutory rape and the consent of the victim cannot be taken into consideration.

7) Taking into consideration the fact that although the applicant was acquainted with parents and guardians of the victim, he had made no efforts to inform them about the whereabouts of the victim, but she was made to travel with the applicant from one place to another as far as Nepal. That the age of the victim needs to be taken into consideration and at this stage the consent of the victim cannot be taken into consideration. It is in these premises that the application seeking enlargement on bail deserves to be rejected.

8) Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)