

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

CRIMINAL BAIL APPLICATION NO. 1546 OF 2016

Vinodkumar Mithailal Aarak. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Vinod Kashid, advocate for Applicant.

Mr. Deepak Thakare, APP for State.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : JANUARY 9, 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 23/6/2015 in C.R.NO. 42/14 registered at R.A.K. Marg Police Station for the offence punishable under section 363, 376, 506(ii) of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 21/2/2014 Mr. Mujib Shaikh lodged a report at the police station that his daughter Ms. X aged about 13 years has not returned home. He had expressed his suspicion that his daughter had left in the company of the present applicant. On the basis of the said report Crime No. 42/14 was registered under section 363 of the Indian Penal Code. The missing girl was found on 23/6/2014. On 26/6/2014 she had undergone clinical examination. She has disclosed to the doctor that she had left the house voluntarily and she had consented for sexual intercourse. It appears to be a case of love affair. It also appears from the record more particularly from the affidavit that the applicant had got married to the victim on 19/2/2014.

4 The learned Counsel for the applicant submits that as on today, the applicant is married to the victim, but since he is in custody, the victim is residing with her parents. The medical reports would show

that the victim was carrying pregnancy. She has undergone medical termination of pregnancy. The blood sample of the foetus was taken and report is positive that the applicant happens to be biological father of the said foetus. It is in this circumstance, the applicant deserves to be enlarged on bail.

5 However, it is made clear that the observations made herein above 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.

6 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 not leave Mumbai, Thane and Palghar without prior permission of the court.

7 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)