

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1610 OF 2016

Prathamesh Vijay Bhoir	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr.A.P.Mundargi, Senior Counsel i/b. Mr. Rahul S. kate, for the applicant.
Mrs. P.P.Shinde,APP, for the State.
Mr. G.V.Tumbada, API, Khadakpada Police Station, Kalyan (West),
present.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 6th February, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C.

The applicant herein is arrested on 16.2.2016 in Crime No.57 of 2016 registered at Khadakpada Post Police Station, Kalyan on 16.2.2016. The investigation is completed and charge sheet is filed against the present applicant and others for the offences punishable under Sections 376(2)(i) (n), 363, 120B, 109, 506, read with Section 34, 465, 466,467, 468, 470, 474, 511 of the Indian penal Code and under Sections 3(a), 4, 5(a)(g), 6, 10 of protection of Children from Sexual Offences Act, 2012 and under Sections 3(1)(xi) and (xii) and 3(2)(v) of the SC & ST (Prevention of Atrocities) Act, 1989.

2. It is the case of the prosecution that on 16.2.2016, one Ms. “x” who was about 13 years old at the time of lodging of FIR, lodged a report at the police station that her mother is working as domestic maid. That one month prior to the incident, she was having intimate relations with one Mayuresh. On 15.2.2016, she had received a call on her cellphone from one person who had disclosed his name as Samip and he had called her outside the house. At that time, there were two boys on a motorcycle. Samip is the cousin of Mayuresh Patil who was known to the complainant. There was one unknown person with Samip. They had forced her to accompany them on the motorcycle. They had taken her to an isolated place. Mayuresh and the present applicant were already waiting for her. They all had forcibly ravished her against her wish.

3. The applicant has been named in the first information report itself. The learned senior counsel submits that the complainant was taken for medical examination, she disclosed to the doctor the names of the accused persons. The name of the present applicant does not find place in the said disclosure statement and, therefore the applicant deserves to be enlarged on bail.

4. The learned APP has drawn attention of this Court to the consent terms which were recorded between the mother of the complainant

and all other accused persons including the present applicant. That it is stated in the said memorandum that the complainant was acquainted with Mayuresh. It is agreed that the accused persons would pay to her mother Rs.6 lakhs at the time of execution of the memorandum. The photographs of the complainant and her mother are affixed to the said document. The learned APP rightly submits that the accused persons have won over the victim and her mother. They have tampered with evidence and therefore they do not deserve to be enlarged on bail.

5. It appears from the records that the investigating agency had recovered an amount of Rs.1,50,000/- which was given to the mother of the victim by the accused as well as the cheque for an amount of Rs.2 lakhs.

6. Taking into consideration the material on record, the act of the accused as alleged in the first information report as well as after the incident, the applicant does not deserve to be enlarged on bail. Hence, the application being sans merits, stands rejected.

(SMT. SADHANA S.JADHAV, J.)