

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1874 OF 2016

Pawan alias Om Pal	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Yogendra pratap Singh, Advocate for the applicant.

Ms. Veera Shinde, APP, for the State.

Mr. D.B. Ghorpade, PSI, Cuffe parade Police Station present.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 14th March, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 20.7.2015 in Crime No.126 of 2015 registered at Cuffe Parade Police Station for the offence punishable under Section 376(C)(i), 354-D read with Section 34 of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012. The investigation is completed and charge-sheet is filed.

2. It is the case of the prosecution that on 19.7.2015, Mrs. Sherawat lodged a report at the police station alleging therein that she happens to be the mother of a daughter Ms.`X'. That on 18.7.2015, she along with her husband returned home at midnight and at that time, they saw one person hurriedly leaving the house. That her husband had stopped

the said person and at that time he had clearly realized that he was working as Leading Steward in the Naval headquarter. He had identified the said person as Om Pal. Her husband had seen the identity card. Upon query, he had informed the husband of the first informant that he was only talking to Ms. 'x'.

3. Upn enquiry with the daughter, she had disclosed to her parents that the name of the said person was Pawan. That he was stalking her. She met him and another friend Rakesh. That she had friendly relations with Rakesh. However, Pawan had told her not to contact Rakesh. Thereafter she received a phone call from one Prithvi. He had called her at Sea Face. She had responded the applicant. The present applicant had informed Ms. X that the real name of Prithvi is Umesh Singh Chauhan. It is further alleged that Prithvi had sexual intercourse with Ms. X against her wish. The present applicant continued to stalk the victim in the name of Prithvi. Thereafter, he had started blackmailing her. That on 17.7.2015, he had threatened her that he would inform her father about her activities. She was sexually abused and ravished by the present applicant.

4. The learned counsel for the applicant submits that the applicant is working in Navy for last 14 years. The father of the victim happens to be the superior officer. That he was knowing the details of the applicant. It

is further submitted that at the relevant time, the applicant was on duty and that he has been falsely implicated by the victim. It is also submitted that as far as other accused are concerned, the victim had given details in respect of the date and time when they reached her. However, the date and time as mentioned by the victim as far as the applicant is concerned are not mentioned and that they are not convincing. It is also submitted that the applicant had never introduced himself to the victim as Pawan. It is submitted that the complainant has concocted this story.

5. The date of birth of the victim is 1.2.2001. At the time of incident, the victim had not even completed 14 years of age. There is no specific reason as to why the complainant would falsely implicate the accused. As far as the plea of alibi is concerned, the applicant would have to establish the same on the basis of cogent and convincing material which can be considered at the time of trial.

6. The learned counsel for the applicant submits that the co-accused Rakesh against whom there are similar allegations has been enlarged on bail by the Special Court vide order dated 7.12.2015 and therefore by virtue of doctrine of parity, the applicant be entitled to be enlarged on bail. That in peculiar facts of the case, doctrine of parity would not be applicable in the present case. The application being sans merits,

stands rejected.

7. The observations made hereinabove are restricted to an application under Section 439 of Cr.P.C. and the learned Special Court shall not be influenced by the same at the time of trial.

(SMT. SADHANA S.JADHAV, J.)