

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

BAIL APPLICATION NO. 1989 OF 2015

Sandesh Sudesh Vinerkar

.. Applicant

Versus

The State of Maharashtra

.. Respondent

Mr. Kuldeep S. Patil for the Applicant.

Ms. Veera Shinde, A.P.P. for the State.

CORAM :- SMT. SADHANA S. JADHAV, J.

DATED :- 9th JANUARY 2017.

P.C. :-

1 Heard. This is a criminal application under section 439 of Cr.P.C. the applicant herein is arrested on 01.11.2014 in Crime No.I-581 of 2014 registered at Virar Police Station. The investigation is completed and charge sheet is filed against the accused under section 376(2) and 506 of I.P.C. and section 3(1)(5) of the Protection of Children from Sexual Offences Act 2012.

2 It is the case of the prosecution that on 31.10.2014 was the birthday of Ms.X. The present applicant happens to be a neighbor of Ms.X. According to the prosecution, the applicant had requested her to accompany him and he was to give her a wrist watch as a gift. The victim had accompanied him. They had gone to a site where a building was under construction. They had gone to the second floor

of the said building. According to the prosecution, the applicant had forced her to denude her clothes. The applicant had also denuded of his clothes and had thrown the clothes from window of the said building. The person working as supervisor of the said building had suspected the applicant and the victim and had latched the door from outside. The supervisor had called upon the builder Atul and Sameer. They had opened the door. They had taken the cell phone number of the mother of the victim and informed her that the applicant and the victim were found in a compromising position. The applicant and the victim were taken to the police station. The mother of the victim lodged a report on the basis of which the crime No.I-581 of 2014 was filed. Investigation is completed and charge sheet is filed.

3 Perused the statement of the victim. She has disclosed to the police that the applicant is residing in room No.206 whereas the victim is residing in room No.202 of Sai Krupa R.J. apartment. That they were acquainted with each other. The applicant had taken the victim along with him under the pretext of introducing her to his girlfriend. When they went to an abandoned spot, he had told her that she happens to be his girlfriend. Thereafter they were meeting each other quite often and according to the victim, the applicant had sexual intercourse with her against her wish.

4 Learned counsel for the applicant submits that this happens to be the case of love affair. The victim is a minor but she had attained the age of understanding. That she has not disclosed to

her parents about the earlier acts of the applicant and it was only when they were found in compromising position, their love affair has come to light.

5 Taking into consideration the material against the applicant, the fact that the applicant and the victim were known to each other and the fact that the investigation is completed and charge sheet is filed, the applicant deserves to be enlarged on bail. It is made clear that the observations are restricted to an application under section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of F.I.R., discharge application, at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing PR. bond in the sum of Rs.25,000/- with one or more local sureties in the like amount.
- (iii) The applicant shall not reside at Virar (East) till the conclusion of the trial.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)