

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

BAIL APPLICATION NO. 2252 OF 2017

Sukhdeo Bhanudas Gawande

... **Applicant**

V/s.

The State of Maharashtra

... **Respondent**

Mr. Kalpesh Patil for the Applicant.

Mr. S.S. Hulke, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 10th NOVEMBER, 2017

P.C.:

. This is an application under Section 439 of Cr.P.C. for bail in C.R. No. 111 of 2014 dated 11.09.2014 registered with Junnar Police Station, District Pune under Sections 363, 366, 376 read with Section 34 of the Indian Penal Code and Sections 4, 6, 8 and 10 of the Protection of Children from Sexual Offences Act.

2 It is the prosecution case that the Applicant induced the victim girl, who was minor at the relevant time to elope with him on 16.07.2014. The Applicant and victim girl were staying at village Savargav, Sangamner District, Ahmednagar upto 09.09.2014. It is alleged that during the said stay, the Applicant committed an act as contemplated under Section 376 of the Indian Penal Code. As the victim girl was minor, the police have applied the provisions of Protection of Children from Sexual Offences Act.

The first information report is lodged by the father of the victim girl and on the basis of the same, the Applicant came to be arrested on 11.09.2014. After completion of investigation, the police have submitted charge-sheet. That the trial pertaining to present case has already began and the first informant has been examined in the said case.

3 Perused the charge-sheet. In her statement under Section 161 of Cr.PC., the victim girl has stated that she was having love affair with the Applicant and she eloped with him at her own will. She has also stated that the Applicant had proposed her for marriage, however as her parents were against the marriage, she did not accede his request. In her statement recorded under Section 164 of Cr.PC., the victim girl has narrated a different version. She has stated that parents of the Applicant had given a proposal to her parents for performing the marriage, to which the parents of victim girl refused and thereafter, in the presence of the parents of the Applicant, her landlord namely Vishnu Shankar Kale assaulted her. She further stated that after witnessing said assault by the landlord, the parents of the Applicant left the said place. In the said statement under Section 164 of Cr.PC., the victim girl has not attributed any overt act to the Applicant. It is the settled position of law that the statement recorded by a Judicial Officer under Section 164 of Cr.PC. assumes much importance than the statement recorded under Section 161 of Cr.PC.

4 In view of the above, Applicant can be released on bail.

Hence, the following order:

- i) The applicant be released on bail in C.R. No. 111 of 2014 dated 11.09.2014 registered with Junnar Police Station, District Pune on his furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount.
- ii) The applicant shall attend all dates before the Trial Court.
- iii) The Applicant shall not tamper with the evidence and/or pressurize or threaten the prosecution witnesses.
- iv) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)