

2 The present applicant is an accused in Crime No. 334 of 2017, registered with Karmala Police Station for the offences punishable under Sections 363, 366(A), 376(2)(1), Indian Penal Code and under Section 4,6 and 8 of the Protection of Children from Sexual Offences Act. The investigation is completed and charge-sheet is filed on 14th September, 2017. The facts of the case in nutshell are as follows:

On 7th June,2017, the complainant-Sugriv Namdev Shingate lodged a report at Karmala Police Station alleging therein that his grand-daughter Ms. 'X' who is about 15 years old, was diagnosed with diabetes and therefore she was not attending her school. That on 29th May, 2017, she had visited the house of her grand parents at village Padali, Taluka Karmala.

According to the complainant, on 4th June 2017, after the dinner, all the family members were sleeping in the courtyard, at about midnight, his wife realised that Ms. 'X' was missing. For some time, she presumed that she must have gone to answer natures call. However, the girl had not returned and therefore on 5th June, 2017, they informed the father of the victim about the same. They searched for the girl at the relatives' house but she could not be found and therefore they lodged the report.

3 On 18th June, 2017, one of the relatives of the present applicant had informed his father Nagnath Kale that the applicant had visited his house alongwith the girl. Both the families suspected that the applicant was in the company of the victim as he was also left the village on 4th June, 2017. They visited their house and thereafter the applicant was taken in the custody on 19th June 2017.

4 On the same day, the statement of victim-girl was recorded. She disclosed to the police that she was acquainted with the present applicant for quite sometime. On 4th June 2017, he had visited the house of her grand-parents. That he woke her up and asked her to accompany him. It is alleged that he had assured to marry her. She accompanied him on his motorcycle. They went to village Patas on the motorcycle and stayed there in a rented room as husband and wife. While taking the room on rent, they had informed that they are married. It is alleged that during their stay at Patas, they had sexual intercourse. They had then realised that police were in search of them. The applicant had taken her to Pune and had visited the house of the relative i.e. Vishal Gawade. On 18th June, 2017, Vishal Gawade had informed the families that the applicant was staying with the victim-girl in his house. Thereafter, they were taken into the custody.

5 Learned counsel for the applicant submits that although the victim was a minor, she had attained the age of understanding and that she had voluntarily left the house in the company of the applicant and she knew the consequences of her act. They were residing at Patas as husband and wife. It is also submitted that the applicant had got married only two months prior to 4th June, 2017 and that the applicant and victim-girl had eloped from the house of her grandfather. Taking into consideration the facts of the case and the fact that as on today the victim is also married to a third person.

She is living her independent life. That she had left the company of her grand parents voluntarily. The investigation is completed and charge-sheet is filed and therefore the applicant deserves to be enlarged on bail.

6 The observations made hereinabove are restricted to the application under Section 439 Code of Criminal Procedure and shall not be taken into consideration for the purpose of quashing of F.I.R., discharge application or at the time of trial. Hence, the order :

ORDER

1 The application is allowed.

2 The applicant-Balaji Nagnath Kale be enlarged on bail on furnishing P.R. bonds in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.

3 The applicant shall not visit village Chinchpur, Taluka Paranda, District Usmanabad till framing of charge or till 30th August, 2018.

(Smt. Sadhana S. Jadhav, J)