

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2687 OF 2017.**

Suresh alias Suraj Nagu More	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Ashwin Dhool i/b Mr. Praful Gaikwad, for the applicant.
Ms. S.S.Kaushik,APP, for the State.
Mr. R.D.Gaware, Havildar, Khed Police Station, Pune, present.

**CORAM : SMT. SADHANA S.JADHAV, J.
DATE : 18th December, 2017.**

P.C. :

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 2.5.2017 in Crime No.121 of 2017 registered at Khed Police Station for the offences punishable under Sections 363 and 366 of the Indian Penal Code. The investigation is completed and charge-sheet is filed for the offences punishable under Sections 363, 366, 376 read with Section 34 of the Indian Penal Code.
2. It is the case of the prosecution that on 10.4.2017, Dattatray Gargote lodged a report at the police station alleging therein that his daughter Ms.`X' is about 17 years and 7 months old. That on 7.4.2017, the complainant and his wife returned home from a function. Their house was

locked from outside. He had enquired with his mother who had replied that when she was standing outside the house, one boy had come on a motorcycle and has taken away Ms.`X' along with him. He had suspected the present applicant had named him in the first information report. On the basis of the said report, the offence is registered against the applicant under Sections 353 and 366 of the Indian Penal Code. In the course of investigation, the statement of the victim was recorded.

3. On 1.5.2017, the present applicant along with Ms. `X' was found in the house of his sister. Her statement was recorded on 2.5.2017 and she disclosed that on 7.4.2017, the applicant had been to her house on his motorcycle and had forced her to accompany him. He had taken her to his own house. He was informed by the applicant that both are leaving for Mumbai. His brother had accompanied him to Khed S.T. Stand. It is alleged that he had co-operated with the applicant. They had stayed at various places. It appears from the records that the applicant was married to Ms.`X' at Khidakaleshwar Temple, Shil Phata, Dombivali. They had established physical relations. Ms. `X' had also maintained that she had been forced to marry the applicant.

4. The investigating agency has recorded the statement of

Harishchandra Narayan Joshi who is working as Purohit. He has specifically disclosed to the police that at the time of performing the marriage, the girl had disclosed that she was 19 years old and, therefore, he had performed all the rituals of the marriage and he was paid Rs.3,000/- towards his fees. It therefore appears that the applicant had not forced Ms. 'X' to get married to him. The photographs of his marriage ceremony are on record forming a part of the charge-sheet which clearly indicates that she had entered into matrimony voluntarily.

5. The learned counsel for the applicant submits that in fact, it appears that after she had been to her parents' house, she was coerced by her parents to disclose to the police that she was forced by the applicant to get married to her. In any case, the papers of investigation do not suggest that the applicant had forcibly abducted the victim from her house. This Court is of the opinion that further incarceration is not warranted. The applicant has made out a case for grant of bail.

6. The observations are prima facie in nature and are not restricted to an application under Section 439 of Cr.P.C. and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or more sureties in the like amount.
- (iii) The applicant shall not reside at Kadus (Ranmala) in Taluka Khed till the commencement of the trial.

The application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)