

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2611 OF 2016

Chotu @ Raju Nichad Rawat

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Ravindra Pande Advocate for Applicant.

Ms. J. S. Lohakare APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 20th FEBRUARY, 2017.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is charge-sheeted for offence punishable under sections 376 (D), 328 of the Indian Penal Code registered at Valiv Police Station

2) It is the case of the prosecution that the victim in the present case, was moving around lonely in Churchgate area on 29/12/2015. She was therefore, sent to children's house/protection home at Dongri. At the time of medical examination, it was revealed that she was carrying pregnancy of 14 weeks. Clinical check up was done on 21/01/2016. That the statement of the victim

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was recorded by the police and she had disclosed to the police that her father is not alive. She was residing in Aadhar Ashram and Krupaprasad Ashram since childhood. Two years prior to the recording of the statement, she was residing with her mother Usha and brother Siddharth and one uncle named Umesh Kumar and brother of the victim was being ill-treated by their mother and therefore, he had left the house. The victim was also beaten by her mother and uncle. That in the month of December 2015, according to the complainant, present applicant had administered some stupefying substance and ravished her against her wish. Applicant happens to be resident of same chawl. Victim was dropped by her mother at Churchgate Station and she was warned by her mother that she shall not return home.

3) The learned counsel for the applicant submits that even according to the victim, the incident is dated December 2015 and when she was examined on 21/01/2016, she was found carrying pregnancy of about 14 weeks and therefore, according to the learned counsel, applicant cannot be held liable for the said act.

4) It is pertinent to note that it is not the case of the prosecution that victim had conceived pregnancy after she was ravished by the present applicant. The

issue involved is that the applicant had ravished her after administering stupefied substance in December 2015. The victim is minor who is merely 15 years old. The date of birth of the victim is 20/10/2003 and therefore, at the time of incident, she was hardly 12 years old. She has been victimized at the hands of her own mother. In the peculiar facts of the case, applicant does not deserve to be enlarged on bail.

5) Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)