

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE SIDE JURISDICTION  
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2222 OF 2016

Sandeep Chintaman Varkhande

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Sameer Vaidya i/b Mr. Umesh Vasant Mohite Advocate for the Applicant.

Mr. R. M. Gadhvi APP for the State.

Mr. Jaisingh S. Nale, PSI, Bhoisar Police Station.

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

**DATED : 11<sup>th</sup> JANUARY, 2017.**

**PC :**

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 106 of 2016 registered at Bhoisar Police Station for offence punishable under sections 376 (2) (I), 342, 506 of the Indian Penal Code and section 4 & 8 of the Protection of Children from Sexual Offences Act, 2012.

2) It is the case of the prosecution that the victim herein happens to be neighbour of the applicant. On 18/05/2016, her elder sister had requested the applicant to drop the victim at home. The sister had reposed faith in the

ism

applicant due to the fact that he was a neighbour. It appears that applicant had taken undue advantage of the faith reposed in him. Victim was ravished by the applicant in his own rickshaw. Thereafter, victim was kept in detention till early morning. Thereafter, applicant had called upon his brother-in-law Avinash Sutar whom the victim requested to drop her at home. She had disclosed the incident to her sister and then to her mother on the basis of which they lodged the report at the police station.

3) The learned counsel for the applicant vehemently submits that the applicant has been falsely implicated. According to the learned counsel, parents of the victim had not filed any missing complaint although she was not at home on the relevant night. Be that as it may, the statement of the victim is recorded under section 164 of the Code of Criminal Procedure, 1973 and as on today, there is no reason to disbelieve the victim. The genuineness of the letter purportedly written by the victim and handed over to the wife of the applicant can be decided at the time of trial or it is a matter of investigation.

4) The possibility that there could be tampering of evidence cannot be ruled out. Hence, applicant does not deserve pre-arrest bail. However, it is

made clear that observations made herein above are restricted to an application under section 438 of the Code of Criminal Procedure, 1973 and shall not taken taken into consideration in application under section 439 of the Code of Criminal Procedure, 1973.

5) Application stands rejected.

**(SMT. SADHANA S. JADHAV, J.)**