

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION No. 884 OF 2018**

Shri Ganesh @ Sanjay Shivaji Chavan

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Raviraj Paramane i/b. Mr. Vaibhav R. Gaikwad for Applicant

Mr. Vinod Chate-APP

Mr. Sanidh Martuti Pawar, API, Satara City Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JULY 4, 2018

P.C.

1. Heard. This is an application under Section 439 of the Criminal Procedure Code.
2. The Applicant is arrested on 12th June, 2017 in Crime No. 1017 of 2017 registered at Satara City Police Station for the offences punishable under Section 363, 366(A), 376, 504 and 506 of the Indian Penal Code and under Section 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 (in short 'POCSO Act').
3. It is the case of the prosecution that on 12th of December, 2017, Ms. 'X'

who happens to be 17 years and 3 months' old lodged a report at the police station, alleging therein that the present Applicant was residing in the same village. That the Applicant used to stop her. One day, he had pushed her into his Alto Car and almost kidnapped her. Thereafter he had taken her to a lonely place and ravished her and, thereafter he had left her at D.Y. College Satara. She returned home and informed her mother about the said incident. Her mother immediately called upon the maternal uncle and sent the victim along with him. That on 1st December, 2017, the Applicant is alleged to have visited to the house of her maternal uncle and stared at her and hence the complainant apprehended danger and had reported the case to the police station. On the basis of the said report Crime No. 1017 of 2017 was registered. The supplementary statement of the victim was recorded on 13th December, 2017. She has alleged that on 26th August, 2017, the Applicant had taken her in his car and had ravished her in the car at a lonely place. The victim was referred for medical examination and she had disclosed to the doctor that the Applicant happens to be a known person from the same village. She had repeatedly talked with him on the phone. That he used to stare at her and follow her on the bike to the college and on 26th August, 2017, he followed her in a four wheeler, dragged her in the vehicle, taken her to the hilly area at Moreghat and had sexually abused

her.

4. The learned counsel for the Applicant submits that in fact, the Applicant and the victim had love affair. That in all probabilities, they were noticed in each other's company and, therefore, she had disclosed to her mother and her mother had sent her to her maternal uncle's house. That soon after the disclosure by the victim, there was no reaction from the mother nor the family members of the victim had asked the Applicant or his family members about the same. It is also submitted that it is at the behest of her parents, the complainant was constrained to lodge a report.

5. The learned counsel for the Applicant submits that it is a consensual sex. That the victim attained the age of understanding and from the disclosure made to the doctor, it is clear that she used to talk to him on the phone and he was a known person from the village. She was 17 years and 3 months' old.

6. In view of the aforesaid facts and submissions advanced across the bar, the Applicant deserves to be enlarged on bail. The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial. Hence, the following order:

ORDER

(i) Application is allowed.

- (ii) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- and one or more sureties in the like amount.
- (iii) The Applicant shall not enter village Khindwadi, Taluka and Dist. Satara till conclusion of the trial.
- (iv) Within four weeks from the date of release, the Applicant shall furnish the details of his place of residence, cell phone and other details to the investigating agency.

Application stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]