

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1175 OF 2018

Sagar Sanjay Budhawale.

...Applicant

v/s.

The State of Maharashtra.

...Respondent.

Mr. Ghanasham S. Jadhav, advocate for applicant.

Ms. Veera Shinde, APP for State.

Mr. Ganesh V. Pawar, PSI, Lonand Police Station.

CORAM : SMT. SADHANA S. JADHAV, JJ.

DATE : JUNE 12, 2018.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 16th January, 2018 in Crime No. 14 of 2018 registered at Lonand Police Station for the offence punishable under section 363, 366A, 354A and 506 of the Indian Penal Code and under section 8 of Protection of Children from Sexual Offences Act, 2012. The investigation is completed and charge-sheet is filed.

Talwalkar

3 It is the case of the prosecution that on 13/1/2018 Gajanan Eknath Chavan who happens to be a father of the minor girl lodged a report at the police station alleging therein that his daughter had gone to college as usual and had not returned home. Initially, it was registered as missing report.

4 On 17/1/2018, after his daughter Ms. X was brought to the police station, he lodged a report that the present applicant had kidnapped his daughter. She was found in the company of present applicant at Koregaon. Upon enquiry, the daughter had disclosed to him that the present applicant was stalking her for quite some time. On 13/1/2018 she had called him on his cell phone just to enquire as to why he had visited her house on the earlier day and that her brother would complain about the same to her father. Soon thereafter, the applicant had been to her college on the motor cycle and had coerced her to accompany him. According to her, she was under threat and had obliged him. He had expressed his desire to marry her. They had been to Nagthane to the house of his maternal aunt and had stayed there in the intervening night of 13th and 14th January, 2018. On 14/1/2018, they had been to Koregaon and the brother-in-law of the applicant had

helped them to find a room. They had rented a room and were staying there. According to the complainant, the applicant had touched her inappropriately. On the same day, i.e. on 16/1/2018 after midnight Lonand Police alongwith her father had gone to the room and accosted the missing girl alongwith the applicant.

5 The learned Counsel for the applicant vehemently submits that the prosecutrix is more than 17 years old. She was acquainted with the present applicant. That he had not taken any undue advantage of her being lonely in his company. The medical report shows that “there was no sexual intercourse. No history of removal of clothes and history of touching with hand over body.” It is also submitted that the applicant is an young boy and is in love with the prosecutrix.

6 Taking into consideration, the papers of investigation and the submissions advanced across the bar, this Court is of the opinion that the applicant deserves to be enlarged on bail.

7 However, it is made clear that the above prima facie observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The trial court shall not be influenced by the same at the time of deciding discharge application or at the time

trial.

8 Hence, the following order is passed :

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 solvent sureties in the like amount.

(iii) The applicant shall not tamper with the evidence.

9 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]