

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1238 OF 2018

Mahadev Prabhu Natkar.

..Applicant.

V/s.

The State of Maharashtra.

..Respondent.

Mr. Ujwal R. Agandsurve, advocate for applicant.

Mr. S.R. Agarkar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : AUGUST 14, 2018.

P. C. :

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

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant here is arrested on 9/3/2018 in Crime No. 37 of 2018 registered at Jodbhavi Peth Police Station, Solapur for offence punishable under section 363, 366, 376(2)(i) of the Indian Penal Code and section 3-A and 4 of the Protection of Children from Sexual Offences Act. The investigation is completed and charge-sheet is filed on 5/6/2018.

3 It appears that Ms. X was missing from the house since

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31/1/2018. Her mother Mrs. Pushpa Iranna Mudgunde had lodged a report at the police station alleging therein that her daughter had been alongwith her aunt to bangle shop. Thereafter, she had disappeared. The mother suspected that she had been kidnapped and in all probabilities by the present applicant. According to the complainant, he was stalking her and she was aware of the same. Ms. X was found with the present applicant at Mumbai on 8/3/2018. The parents had apprehended the applicant along with Ms. X at Mumbai.

4 She was produced for medical examination on 10/3/2018. She had disclosed that she knew the present applicant since more than 5 years. They were in love. She had given history of multiple episode of sexual intercourse with her consent. She has disclosed to the doctor that her parents were looking out for different boy for her marriage and therefore, she had eloped with the present applicant to Wadala, Barshi and from there to Mumbai on 26/2/2018. Statement of Ms. X was also recorded under section 164 of the Code of Criminal Procedure, 1973. She had disclosed that she was acquainted with the applicant since 9th Standard. That he was in possession of some photographs of her and had blackmailed her by publishing the said photographs. She had disclosed that on 31/1/2018 he had brought rickshaw of his friend and had forced her to accompany him and thereafter, they had been to

Wadala. They stayed there till 26/2/2018. The sister of the applicant had taken them to Mumbai and they were residing at Milind Nagar till 8/3/2018 and were apprehended by police of Jodbhavi Peth Police Station.

5 The learned Counsel for the applicant submits that the said statement under section 164 of the Code of Criminal Procedure, 1973 has been recorded on 29/3/2018. The influence of the parent is apparent.

6 In fact, she had made a voluntary disclosure to the doctor. The date of birth of Ms. X is 25/3/2000. The incident is dated 31/1/2018. She was almost 17 years old. She had attained the age of understanding. In view of the voluntary statement made before the doctor, the applicant deserves to be enlarged on bail.

7 The observations are prima facie in nature and restricted to the application under section 439 of the Code of Criminal Procedure, 1973. The same shall not be considered for discharge application or at the time of trial.

8 Hence, following order is passed :

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ORDER

- (i) The application is allowed.
 - (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 20,000/- 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.]