

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION No. 1616 OF 2018

Abubakhar Isak Patel

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Rahul Sopanrao Kate for Applicant

Mr. Prashant Jadhav -APP

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JULY 23, 2018

P.C.

1. Heard. This is an application under section 439 of the Criminal Procedure Code.

2. The Applicant herein is arrested on 1st of April, 2018 in Crime No. 134 of 2018 registered at Karad Taluka Police Station initially for offence punishable under section 363 of the Indian Penal Code. The investigation is completed and charge-sheet is filed against the present Applicant for offences punishable under section 363, , 366 and 376 of the Indian Penal Code and section 3A, 4,6 and 8 of Protection of Children from Sexual Offences Act, 2012.

3. It is the case of the prosecution that in the intervening night of 25th and 26th March, 2018, the parents of Ms. 'X' noticed that she was not at home. They lodged a missing report. On 1st April, 2018, when Harun Mulla was at home, he was informed by one Jainuddin Patel to search for Ms. 'X' in White House Lodge at Pimpri. The Applicant was found in the company of Ms. 'X' in room No.311. The room was booked in the name of Abubhakar Patel i.e. the present Applicant. Harun Mulla had brought both of them to Karad Police Station.

4. In the course of investigation, the statement of the victim was recorded. She disclosed that in the intervening night of 25th and 26th of March, 2018 she woke up at about 1.00 a.m. to 2.00 a.m. to drink water. The Applicant herein had signaled to her since they knew each other. They went out of the house. He lured her and made her board a rickshaw. From there, they hand gone to Bangalore. That he had ravished her against her wish at Bangalore on 2/3 occasions and, thereafter, they came to Pune and they were staying in White House Lodge. From there, her uncle had taken them to Karad Police Station.

5. Ms. 'X' was 17 years and 4 months old on the day of incident. It is true that she had not attained majority but she had attained the age of understanding. The statement of the victim does not inspire confidence. She had passed her Xth Std. in the year 2016. The School Leaving Certificate shows that her date

of birth is 27th December, 2000.

6. The learned counsel for the Applicant vehemently submits that in fact the Applicant was not just acquainted with Ms. 'X', but they were in love and she had voluntarily withdrawn herself from the custody of her parents on 25th March, 2018. The statement of victim does not inspire confidence. Hence, the Applicant deserves to be enlarged on bail.

7. The observations are prima facie in nature and shall not be considered for discharge application and /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 of Rs.25,000/- and one or more sureties in the like amount.

Application for bail stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]