

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1634 OF 2018**

Kishor Haridas Taware. ..Applicant.

V/s.

The State of Maharashtra. ..Respondent.

Mr. Satyam H. Nimbalkar, Advocate for applicant.

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

Mr. Mohan M. Gaikwad, H.C. Pangri Police Station, Solapur.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : AUGUST 1, 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 7th March, 2018 in Crime No. 41 of 2018 registered at Pangari Police station, for the offence punishable under section 376, 366, 506 read with section 34 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 23rd February, 2018

Talwalkar

Satyawan Solwat lodged a report at the police station alleging therein that in the intervening night of 22nd and 23rd February, 2018 when he woke up, he noticed that his wife was not in bed. He had enquired with the family members and nobody knew as to where and why she had left without informing anybody. On the basis of the same, a missing report was filed in respect of the wife of Satyawan.

4 On 26/2/2018 statement of Priyanka, wife of Satyawan was recorded. She had disclosed that she was having abusive marriage, as her husband was suspecting her character and therefore, on 22/2/2018, she had voluntarily left her matrimonial house without informing anybody. She stayed in temple at Yermala and thereafter, approached the police station. She had further disclosed that in the eventuality, she gets custody of both the children, she is willing to take care of them. She had been to the police station alongwith her friend Sonal Anand Chaure and had also disclosed that she has no grievance as against anybody. On 26/2/2018 Satyawan had once again approached the police station and informed the police that his wife has returned home on 26/2/2018. He requested her to co-habit with him. She refused to cohabit and instead asked for custody of both of her children and also had informed that she does not wish to joint his company in future.

5 On 7th March, 2018 Priyanka had approached Pangari Police Station and had informed that in the intervening night on 22/2/2018, the present applicant had been to her house at midnight and has asked her to join him. He was followed by Ganesh Shelke and his driver Bhaiya Thite. He had come in Indica car and before she could say anything, she has been shoved into his car and was abducted. The vehicle was stopped near a lodge. She was threatened by the present applicant. The present applicant had taken her to a hotel and had sexual intercourse against her wish. He had taken her to Kalamb and again she was sexually abused by the applicant. She was kept in detention till 26/2/2018. Thereafter she had quarrel with her husband and left her matrimonial home. She had been to S.T. Stand to go to the house of her friend and at that time, present applicant had again abducted her and had sexually abused her till 6th March, 2018. On the basis of the said report, Crime No. 41 of 2018 is registered at Pangari Police Station against the applicant. Investigation is completed and charge-sheet is filed.

6 In this case, the statement of the husband dated 23/2/2018 and statement of the victim dated 26/2/2018 needs to be taken into consideration. It is pertinent to note that on 26/2/2018 she was accompanied by her friend to the police station and the allegations were

only against her husband. She had specifically stated that she has no grievance against anybody else. On 26/2/2018, she had categorically stated that being fed up of the atrocities meted out to her at the hands of her husband, she had left the house on 23/2/2018. Despite this, first information report is lodged, which indicates that the present applicant had called her out of the house in the intervening night of 22nd and 23rd February, 2018. At that relevant time, the complainant had not woke up neither her husband or her mother-in-law and children who were very much in the house. She had opened the door and according to her she was kidnapped.

7 In this background, the first information report i.e. initiation of the registration of FIR, prima facie, does not inspire confidence of the Court. Moreover, the learned Counsel for the applicant has stated that the applicant herein had contested grampanchayat election against brother-in-law of the complainant. Her brother-in-law was defeated and that the applicant is officiated as Upsarpanch of village Pangri. In these circumstances, the applicant deserves to be enlarged on bail.

8 The observations are prima facie and restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the same shall not be taken into consideration for discharge

application or at the time of trial.

9 Hence, 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. 50,000/- with one or more solvent sureties in the like amount.

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

10 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]