

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

CRIMINAL BAIL APPLICATION NO. 104 OF 2018

Sonesh Ravindra Hire.	... Applicant.
Versus	
The State of Maharashtra.	... Respondents.

Mr. Satyavrat Joshi, advocate for Applicant.

Ms. S.S. Kaushik, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 24, 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 12/8/2017 in Crime No. 205 of 2017 registered at Malegaon Taluka Police Station for offence punishable under section 363, 366, 376 of the Indian

Penal Code and Section 4, 8 of the Protection of Children from Sexual Offences Act, 2012.

3 It is the case of the prosecution that on 10/8/2017 Rahul Bachav lodged report at the police station alleging therein that his sister namely Meera is missing. That on 12/8/2017 the applicant had received a phone call from Dattawadi Police station. Pursuant to the said phone call, he had approached the police station alongwith the sister of the complainant. The applicant was taken into custody and thereafter, statement of the sister of the complainant was recorded. She has disclosed to the police on 12/8/2017 that she was in love with the applicant. On 9/8/2017 she left her house under the pretext of attending tailoring classes. She went to Malegaon, where she met the applicant and from there she accompanied applicant to Pune. They met their friends. They had agreed to get married. The applicant and the sister of the complainant went to Alandi alongwith their friends to get married. She has disclosed to the police immediately that she was in love with the applicant for the preceding

two years and that they had decided to get married. However, there was strong opposition from both the families and therefore, they had decided to elope and to get married.

4 It appears from the compilation of charge-sheet, as per school leaving certificate the date of birth of sister of the complainant is 6/5/1999. While leaving , by way of abandoned caution, she was carrying all the documents which would indicate her identity as well as the age. The applicant and sister of complainant have filed several affidavits indicating that they intend to get married. They have specifically stated in the affidavit that while leaving their respective houses, they have not carried any valuables such as jewellery, money etc.

5 The applicant is in custody since 12/8/2017. The investigation is completed and charge-sheet is filed against the applicant under section 376 of the Indian Penal Code and provisions under section Protection of Children from Sexual Offences Act, 2012. Since birth

certificate shows that the date of birth is 26/5/2000 and therefore, according to the prosecution, she is less than 18 years old and hence, the applicant is being prosecuted under the provisions of Protection of Children from Sexual Offences Act, 2012.

6 Upon perusal of the compilation of the charge-sheet and more particularly, the statement of sister of complainant, by no stretch of imagination, it can be said that section 376 of the Indian Penal Code could be attracted. It is in these circumstances, the applicant deserves to be enlarged on bail.

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

8 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. 15,000/- and 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)