

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

BAIL APPLICATION NO.121 OF 2018

Ramdas Agatrao Rupnar		Applicant
<u>Vs.</u>		
The State of Maharashtra		Respondent

Mr. Aniket U. Nikam a/w Mr. Harshal Patil a/w Mr. Piyush Toshniwal
i/by Mr. Aashish Satpute for the Applicant.

Mr. S.R. Agarkar, APP for the State.
Mr. S.S. Gaikwad, Police Naik, Nigdi Police Station, Pune City
present.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 8th February, 2018

P.C.:

1 Heard the learned counsel for the applicant and the
learned APP. Perused the papers of investigation.

2 This is an application under Section 439 Code of Criminal
Procedure. The applicant herein is arrested on 3rd July 2017 in
Crime No.296 of 2017, registered at Nigdi Police Station, District
Pune initially for the offence punishable under Sections 363 of
Indian Penal Code. The investigation is completed and charge-sheet
is filed against the applicant under Sections 363 and 376 of Indian

Penal Code and under Sections 3,4, 5(L), 6 of Protection of Children from Sexual Offences Act, 2012.

3 It is the case of the prosecution that Nirmala Balasaheb Sabale lodged a missing report on 30th May 2017 informing the Police that her daughter Ms. “X” had not returned home and in all probabilities, she was kidnapped by unknown person. In the course of investigation, the missing girl was found in the company of the present applicant on 3rd July 2017 at Hinjewadi. On 12th June, 2017, Nirmala Sabale had informed to the Police that she had enquired with her parents about the whereabouts of her daughter. Her mother Suman Ashruba Vetel had informed Nirmala that on 29th May 2017, she had seen Ms. “X” in the company of the present applicant and they both had left together. She had specifically stated that since the matter pertains to the honour of the family, she had not disclosed the same to Nirmala.

4 On 4th July 2017, the statement of Ms. “X” was recorded. She had specifically stated that her mother runs tea stall. The applicant used to visit the said tea stall and she had got acquainted with him. On 28th June, 2017, the applicant had allegedly proposed to her and therefore, they had decided to elope. They had resided in his friend's room at Morevasti. She has stated that she was forced to have sexual intercourse by the applicant.

5 Ms. "X" was produced for clinical examination on 4th July, 2017. The history recorded by Doctor is as follows :

"As per history given by victim, she was in romantic relationship with accused since 2½ years. The accused is married since six months to another girl under pressure from family. Both the victim and accused have had multiple episodes of consensual sexual vaginal intercourse. Victim does not gave history of any force or sodomy. On 28th May 2017, she eloped from home, got married to accused in Alandi and stayed at Jejuri, Gorakhpur (U.P.) and back to Hinjewadi where she had sexual intercourse. Victim became pregnant with accused and took MTP pill given to her by her mother. On 25th May 2017, which she started bleeding. The accused and victim were caught in Hinjewadi and then brought for gynaecological examination to Sasoon General Hospital."

6 Learned counsel for the applicant submits that in all probabilities, the mother of Ms. "X" was aware of the intimacy between the applicant and Ms. "X". The dates given in the papers of investigation by Ms."X" do not tally with the date when she had eloped. The history was given to the Doctor by Ms. "X" herself and hence the same deserve to be relied upon. In the above mentioned facts, the applicant deserves to be enlarged on bail.

7 However, the observations made hereinabove are restricted to the application under Section 439 Code of Criminal Procedure and shall not be taken into consideration for the purpose

of quashing of F.I.R., discharge application or at the time of trial.
Hence, the order :

ORDER

- 1 The application is allowed and stands disposed of.
- 2 The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.

(Smt. Sadhana S. Jadhav, J)