

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

BAIL APPLICATION NO.280 OF 2018

Mr. Pranav Rajendra Jadhav Applicant
 Vs.
The State of Maharashtra Respondent

Mr. Shailesh Kharat for the Applicant.
Mr. N.B. Patil, APP for the State.
Mr. A.A. Gaikwad, PSI, Junnar police station, present.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 22nd 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 18th April 2017 in Crime No.70 of 2017, registered at Junnar Police Station initially for the offences punishable under Sections 363 of Indian Penal Code. The investigation is completed and the charge-sheet is filed.

3 It is the case of the prosecution that on 16th April, 2017, Savita Sanjay Chatur lodged a report at the police station alleging therein that she has daughter who is aged about 17 years old and

studying in 11th standard (Commerce) in Chattrapati College at Junnar. On 16th April, 2017, the first informant had been to work in the agricultural land of Sunil Chavan, her sister Sheetal Jadhav asked her on cellphone to go home and confirm whether her minor daughter is at home. Thereafter the informant immediately reached at the home and found that her daughter was not at home. She had enquired with her relatives. She had learnt that her daughter had proceeded on red colour motorcycle towards S.T. Stand, Junnar at about 1.30 pm. They had searched for her and thereafter the informant had suspected that her minor daughter has been kidnapped by someone. On 18th April, 2017, the minor daughter of the first informant Ms. "X" had come to the police station alongwith the present applicant. She had disclosed to the police that she had voluntarily left the house and accompanied the present applicant as she was being harassed by her mother and her maternal aunt. That she was in love with the present applicant. She had disclosed that on 16th April, 2017, she had called upon the applicant and informed him that she was at Junnar S.T. Stand. Thereafter he had taken her on his motorcycle towards Narayangaon, Chakan and both had been to the house of his friend, Manoj. They stayed there for two days. That thereafter, the applicant was insisting upon her to return home as the police were contacting Manoj.

4 The victim was sent for clinical examination and she had disclosed to the Doctor that she was in love with the present applicant. She had voluntarily left the house and had accompanied the present applicant to his friend's house. It was specifically stated that during the period of two days, the applicant had not sexually assaulted her and had not taken any disadvantage of her. The statement of the victim was recorded under Section 164 Cr.P.C. and she has reiterated that she was in love with the present applicant and he has been falsely implicated by her parents. She has once again stated on oath that the applicant had not sexually assaulted her. Learned APP submits that the clinical examination would show that there is evidence of penetrative vaginal sexual intercourse. That the consent of the victim cannot be taken into consideration as she is a minor and hardly aged about 17 years old. At this stage, the statement of the victim would be relevant. It appears that she is in love with the applicant. She has stated before the police, Doctor as well as in her statement under Section 164 Cr.P.C. that the applicant has not taken any undue advantage and has not sexually assaulted her and she had maintained that she happens to be in love with the present applicant. In the above mentioned facts, the applicant deserves to be enlarged on bail.

5 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.
- 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*)