

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

BAIL APPLICATION No. 397 OF 2018

Pandit @ Vilas Siddhu Chavan

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. P.G. Sarda i/b. Mr. Sachin T. Zalte for Applicant

Mr. Vinod Chate -APP

Mr. P.N. Satdive, Havaladar, Koregaon Park Police Station

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JUNE 5, 2018

P.C.

1. Heard. This is an application filed under section 439 of Criminal Procedure Code. The applicant herein is arrested on 18th July, 2017 in Crime No. 125 of 2017 registered at Koregaon Park Police Station, Pune for the offences punishable under Section 363, 376, 323,506 (1) of IPC and u/s. 4,8 of The Protection of Children from Sexual Offences Act, 2012. The investigation is completed and charge-sheet is filed on 16th October, 2017.

2. It is the case of the prosecution that on 9th July, 2017, Ms. Sangita Machindra Chindhe, working as Warden of Sant Janabai Girls Hostel lodged a

report at the Koregaon Park Police Station alleging therein that Ms.'X' was staying in the said hostel since last year and she was pursuing her education in Second Year, Government Polytechnic College. On 8th July, 2017, it was noticed that she has left the hostel and had not returned back. All efforts to contact her on cell phone had failed. The girls of the said hostel had also called upon her and there was no reply. One Ms. Madhuri Bhandekar had made a last attempt to call her on cell phone. She received the call and Ms. Madhuri Bhandekar asked the whereabouts and also informed her that warden has inquired her whereabouts. Ms. 'X' has disclosed that she had gone to her village and, thereafter, the cell phone was continuously switched off and all efforts to contact her on cell phone had failed. There was an inquiry with her parents, her mother had disclosed that Ms. 'X' did not reach home. On 9th of July, 2017, the mother of Ms.'X' had reached the hostel. At about 11.55 a.m. Ms.'X' had given a call on the cell phone of warden and when the warden enquired about her whereabouts, she told that she was going to her home. At that time, the warden had asked her to come back to hostel since her mother was also waiting for her. However, Ms. X. did not return to hostel and, therefore, first information report was lodged initially under section 363 of IPC. On 17th July, 2017, Ms 'X' was found in the company of the present Applicant in Gujrat

at the house of one of the relatives of the present Applicant. The statement of Ms. 'X' was recorded on 18th July, 2017. She had disclosed that the Applicant had taken her. Thereafter he had forcibly ravished her and then asked her to accompany him or else she would have to face dire consequences. According to Ms. 'X', the Applicant had visited her at the hostel. It was noticed by the warden who had warned Ms.'X she should not meet the boy at the hostel. Therefore, he had abducted her and taken her long way. She had further disclosed that his relatives had purchased one mangalsutra and other ornaments for her and, thereafter, she was forced to adorn the mangalsutra. She further disclosed that they were residing in Gujarat.

3. In the course of investigation, the statement of one Sunita Patel, who is an independent witness was recorded. She disclosed that on 13th of July, 2017, the present Applicant along with Ms. 'X' had gone to her house as they are distant relatives. She was informed that the Applicant and Ms.'X' were married and that she was his wife. Ms. 'X' was wearing mangalsutra at that time. Her another relative had informed Mrs. Patel that the couple be allowed to stay there for some time as they have to go out of station.

The prosecutrix / Ms. 'X' is on the verge of attaining the majority and

the applicant is also a student, who is hardly about 20 years' old. Ms. 'X' was sent for medical examination by the prosecution. At the time of medical examination she had disclosed that Ms. 'X' was acquainted with the Applicant since 2016 when they were studying in 10th Std. They were in love relationship since then. On 8th July, 2017, Ms. 'X' along with her friends went to Khadakwasla at Pune for picnic and while they were returning, she had received a call from the Applicant and then both of them had left Pune. Prima facie it appears to be a love affair between a young boy and a girl.

4. The learned counsel for the Applicant submits that in order to save herself, the victim, in all probabilities must have disclosed that she was forced to accompany the Applicant.

5. Taking over all view of the facts of the case, this Court is of the opinion that the Applicant has made out a case for grant of bail. These observations are prima facie in nature and only restricted to present application filed under section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of FIR / discharge application and/or at the time of trial. Hence, the following order:

ORDER

(i) The bail application is allowed.

- (ii) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000 and one or more solvent sureties in the like amount.
- (iii) The Applicant shall not visit Taluka Daund till conclusion of the trial.

[SMT. SADHANA S. JADHAV, J.]