

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

BAIL APPLICATION NO.819 OF 2018

Maruti Sarjerao Gokule		Applicant
<u>Vs.</u>		
The State of Maharashtra		Respondent

Ms. Megha Bajoria i/by Mr. Kuldeep S. Patil for the Applicant.
Mr. S.H. Yadav, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 13th June, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 439 of Code of Criminal Procedure. The applicant herein is arrested in Crime No.273 of 2016, registered at Chakan Police Station, District Pune for the offences punishable under Sections 363, 366(A), 376(D) read with 34 Indian Penal Code and under Sections 4, 6, 8, 10, 12 of Protection of Children from Sexual Offences Act.

3 It is the case of the prosecution that on 29th March 2016, one Ms. "X", who is about 13 years and 10 months old lodged a report at the police station alleging therein that she is studying in 8th standard. That the present applicant is residing in her neighbourhood and therefore she knows him. That he used to visit her house whenever she was alone under one or the other pretext. He was stalking her whenever she went to school. She was scared and therefore she did not inform her parents about the same. That 15 days prior to lodging of the incident at about 12.30 hrs., when she was alone at her house, he entered the house and closed the door from inside. When she questioned the said act of the applicant, he was annoyed with the same. He had denuded of her clothes, pushed himself onto her and ravished her. She in fact had rushed to the agricultural land to inform her parents about the same, however, she was scared and did not dare to do the same. It is alleged that on 29th March 2016 when she was returning home alongwith her friends, the applicant had accosted her. He was in his Tata Sumo Car. He had dragged her into the car. She had raised hue and cry. Her

friends had also raised alarm but no one was there to rescue them. He had ravished her once again by dragging her into the sugarcane crop and had threatened her of dire consequences. The prosecutrix had suddenly realised that there were some people, she called for the help, by that time one Bhimsen Pawar and Pandit Nikam of the village tried to apprehend him, but he had escaped. Thereafter she was constrained to lodge the report.

4 The papers of investigation more particularly the statements of the witnesses corroborated the narration of the prosecutrix. The prosecutrix is hardly 13 years and 10 months old. The medical papers clearly indicate that there is evidence of penetrative genital injuries. The act of the applicant was heinous in nature. No case for bail is made out. The victim had given same history to the doctor.

5 Learned counsel for the applicant vehemently submitted that the history given to the doctor shows that no harm was caused

to the victim on that day. In fact the incident dated 29th September 2016 is a subsequent act. Prior to that he had ravished her. According to the learned counsel for the applicant, it was a consensual act and only because agricultural land owner had seen them, she had raised hue and cry. The court cannot be oblivious of the fact that the consent of 13 years old girl cannot be taken into consideration. In view of this, the application seeking enlargement on bail stands rejected.

6 The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial.

(Smt. Sadhana S. Jadhav, J)