

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 949 OF 2018

Prashant Suresh Dange. .. Applicant.

V/s.

The State of Maharashtra. .. Respondent.

WITH
CRIMINAL APPLICATION NO. 589 OF 2018
IN
CRIMINAL BAIL APPLICATION NO. 949 OF 2018

Ms. Bhagyashri Popat Gholap. ..Applicant/
Intervenor.

In the matter between

Prashant Suresh Dange. .. Applicant.

V/s.

The State of Maharashtra. .. Respondent.

Mr. Manisha Arjun Devkar, advocate for applicant.

Mr. Viresh V. Purwant, advocate for intervenor.

Mr. Y.Y. Dabake, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JUNE 29, 2018.

P. C. :

1 Heard the learned Counsel for the applicant and learned APP
for State.

Talwalkar

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 11/11/2017 in Crime No. 559 of 2017 registered at Akluj Police Station for offence punishable under section 376(d), 366, 363, 506 read with section 34 of the Indian Penal Code. Investigation is completed and charge-sheet is filed.

3 It is the prosecution case that on 7/11/2017 one Bhagyashri Popat Gholap lodged a report at the police station alleging therein that she happens to be a cousin of Swapnaja Gaikwad. According to her, on 7/11/2017 at about 1.10 in the afternoon, they both were proceeding home after college. A Swift-Dezire car with no registration number had crossed them. That when they were passing in front of Maruti Temple, the car had stopped. Four boys had alighted from the said car. One of them had called Swapnaja. She has given description of their clothes. According to her, Swapnaja was dragged by the boys and made to climb in the car. First informant was threatened. She then informed her family members about it and lodged the report.

4 In April, 2017 Swapnaja had lodged a report with Akluj Police Station against the present applicant for eve-teasing. At that time, the applicant is alleged to have uttered the words that he would marry her.

Talwalkar

5 On 9/11/2017 supplementary statement of the complainant was recorded, wherein she had stated that she had identified the car bearing No. MH 12 JU 7417 as the same car in which her cousin was abducted. In her presence, the driver of the said car namely, Deepak Tanaji Kumbhar had disclosed that she was abducted at the instance of Prashant Dange as he wanted to get married to her and that they have got married. The complainant has further stated that since the applicant was seated next to the driver, she could not identify him. On 9/11/2017, the applicant had taken Swapnaja to a lodge at Wagholi and in the afternoon the police had apprehended them from the lodge and they were brought to Akluj.

6 The statement of victim was recorded under section 164 of the Code of Criminal Procedure, 1973, wherein she has contended that the present applicant happens to be the friend of her brother. He was residing in the neighbourhood and therefore, she was acquainted with him. He used to visit their house on one or the other pretext. There was no love affair. That he was stalking her. On one occasion, the applicant had also brandished his revolver and had forcibly taken her behind college. He had taken some selfies with her and had threatened her not to disclose about it to anybody. She has further disclosed that she had

been to reside with her maternal uncle. He had given her a handset forcibly and had threatened her that if she does not receive phone call, she would have to face dire consequences. She had informed her mother about the said incident. He had also stalked her when she had been to attend marriage of her cousin.

7 She has alleged that on 7/11/2017 he alongwith his friends kidnapped her. They had been to Mahad. He had offered her clothes when they reached Mahad. She had been to the garment shop, where she changed her clothes. Thereafter, he had changed the car. They had been to the house of his paternal uncle. They had travelled for the whole night. Thereafter, his relatives had got them married forcibly. His paternal aunt Vanita Dange also had brought a Saree for marriage ceremony, cosmetics and other accessories. But Balasaheb and Vanita had not attended the marriage. She was forcibly married. That he had given a Mangalsutra and forced her to smile. Thereafter, they had been to Samrudhi lodge and he had sex with her against her wish. He had threatened her that she shall not disclose anything against him before police.

8 The learned Counsel for the applicant has vehemently submitted that in fact, the parents of the prosecutrix were fully aware of

the love relations and that they had forced her to lodge the complaint against the applicant.

9 Perused the papers of investigation, more particularly, photographs of the wedding ceremony and other photographs, which do not depict that the victim was under threat.

10 The learned Counsel for the intervenor submits that soon after the incident, the Victim has been married to a third person and is residing in her matrimonial home. It is submitted that in the eventuality the applicant is enlarged on bail, the applicant in all probabilities may ruin the marriage of the victim.

11 Learned Counsel for the applicant submits on instructions that the applicant would not interfere with the marital life of the prosecutrix and that he will not use the photographs in any manner.

12 In view of the above facts of the case and submissions advanced across the bar, the applicant has made out a case for grant of bail. The applicant has been in custody since November, 2017, and further incarceration is unwarranted.

13 The observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the same shall not be considered for discharge application or at the time of trial.

14 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. 50,000/- with one or more solvent sureties in the like amount.
 - (iii) The applicant shall not enter into Akluj and Bhuin, Dist. Satara.
 - (iv) The applicant shall not tamper with the evidence.
- 15 The application is disposed of accordingly.

16 Intervention application is heard, allowed and disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]