

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

BAIL APPLICATION NO.1407 OF 2018

Mujahid Munir Shah

... **Applicant**

V/s.

The State of Maharashtra

... **Respondent**

Mr. Irfan Shaikh for the Applicant.

Mr. M.G. Patil, APP for the Respondent State.

CORAM : A.S.GADKARI, J.

DATE : 23rd JULY 2018

P.C.:

1. This is an application under Section 439 of the Cr.P.C. for bail in C.R.No.I-440 of 2016 dated 01.09.2016 registered with Ghatkopar Police Station under Sections 366, 376(2)(f)(n), 506, 199 of Indian Penal Code.
2. Heard the learned counsel for the applicant and the learned APP. Perused the charge-sheet.
3. The FIR is lodged by Shri. Hamid Ulla Amin Shah, the father of prosecutrix. The prosecutrix was above the age of 18 years on the

date of lodgment of the present crime. Initially, the crime was registered under Sections 365 and 364 of the Indian Penal Code against the applicant. It is the case of the prosecution that after a gap of about 5 months, prosecutrix returned to her parents' house and thereafter, the present crime is registered.

4. The prosecution case in brief is that, the applicant is the maternal uncle of the prosecutrix, induced her to accompany him and took her at Daman. He kept prosecutrix in a room under the guise that the prosecutrix is his wife. During their stay at Daman, it is alleged that the applicant has committed an offence as contemplated under Section 376(2)(f)(n) of the Indian Penal Code. At Daman prosecutrix got a job in a Pen Company where she developed love affair with one Virendra. The prosecutrix thereafter told her ordiat to the said Virendra. It is the further prosecution case that one day the applicant raised doubt about the character of prosecutrix and assaulted her and thereafter the prosecutrix decided to return her parents' house with the help of said Virendra.

During the course of investigation, the applicant came to be arrested on 11.03.2017 and after completion of investigation, the

police have submitted charge-sheet.

5. The learned counsel for the applicant submitted that as a matter of fact, the prosecutrix was above the age of 18 years on the date of alleged abduction by the applicant and she herself accompanied him to Daman. He submitted that the prosecutrix used to attend job at different companies at Daman and there was every opportunity for her to inform all the concerned about the illegal detention, but she did not do it, and therefore, an inference has to be drawn that the prosecutrix was a consenting party to the alleged act as contemplated under Section 376 of the Indian Penal Code by the applicant. He further submitted that it is only after the prosecutrix developed love affair with the said Virendra, she decided to part with the company of the applicant and came back to Mumbai at her parents' house. He submitted that the investigation of the present crime is completed and charge-sheet has been filed, and therefore, the applicant may be released on bail.

6. After minutely perusing the charge-sheet, I find substance in the submissions made by the learned counsel for the applicant. It is a matter of record that the prosecutrix was having sufficient

opportunity to inform and/or tell the alleged abduction by the applicant to the people from the vicinity where she was residing at Daman and/or to the workers of the company where she was working for more than 4 months. The prosecutrix in her statement dated 08.06.2017 has admitted that it is only after she developed love affairs with Virendra, she decided to come to her parents' house.

7. The applicant is arrested on 11.03.2017 and after completion of investigation, the police have submitted charge-sheet. After taking into consideration the material available on record, this Court is of the view that, no fruitful purpose will be served by further keeping the applicant incarceration.

8. In view thereof, the applicant can be released on bail.

Hence, the following order.

a) The applicant be released on bail in C.R.No.I-440 of 2016 dated 01.09.2016 registered with Ghatkopar Police Station on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

b) After his release from Jail, the applicant shall attend the Ghatkopar Police Station on every first Monday of the month

between 11.00 a.m. to 1.00 p.m. till conclusion of trial.

c) The applicant shall attend all the dates before the Trial Court unless precluded by medical reasons.

d) The applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

9. Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)