

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1655 OF 2018**

Kishor Savlaram Marane. .. Applicant.

V/s.

State of Maharashtra. .. Respondent.

Mr. M.S. Mohite I/b. Mr. Prashant M. Patil, advocate for applicant.

Mr. S.S. Pednekar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JULY 24, 2018.

P. C. :

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

2 This is an application under section 439 of the Code of Criminal Procedure, 1908. The applicant herein is arrested on 24/1/2018 in Crime No. 40 of 2018 registered at Warje Malwadi Police Station for offence punishable under section 376(2)(n), 506 of the Indian Penal Code and under section 4 and 8 of the Protection of Children from Sexual Offences Act, 2012 and under section 14 of the Child Labour Act. Investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 19/1/2018 the survivor

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was brought by a social worker of Child Helpline at Kheda Police Station at Ahmedabad informing the police that she was found to be mentally unstable. The police at Kheda Police Station had directed her to children house. The information was given to Warje Malwadi police station about the same and thereafter, the victim was brought to Warje Malwadi Police Station. Kheda Police Station had referred her for medical examination to General Hospital, Nadiad, where it had transpired that the victim was pregnant and was carrying pregnancy of approximately about 5 months. There was abrasion on left wrist and multiple linear dried abrasion on her abdominal wall. The victim had disclosed her age as 13 years. After she was brought to Warje Malwadi Police Station, she was once again referred for medical examination to Sassoon General Hospital, Pune, where it was confirmed that she was pregnant. The history given by the patient to the doctor was that she was working as sweeper in a society. That the applicant herein who was the supervisor had taken her to the terrace of the said building and had ravished her and further threatened her that she shall not disclose this incidence to anybody. It is pertinent to note that the statement of the victim was recorded by the police on 27/1/2018 in the presence of the social worker. She had disclosed that she had attended school only for one year but she did not recollect the year when she was admitted and when she had left the school. The bonafide certificate shows that she was

admitted in 4th standard in the year 2012-2013. Her date of birth was 1st June, 2003. It appears that she had stopped attending school and was employed by her parents. Her place of birth is Diksal, Taluka Kalamb, District Usmanabad. She had also disclosed that prior to recording of statement, she was trained by the social worker Baby Arun Karekar and she knew that the lady police was present in civil dress. It is further pertinent to note that the victim had signed the said statement in English.

4 It is pertinent to note that at Sassoon Hospital the doctor had obtained sample which was sent for DNA test. The result of the analysis is as follows :

“Kishor Savlaram Marne is excluded to be the biological father of Baby of Ms. X(victim).”

5 It is further pertinent to note that even at Ahmedabad, she was found in an abandoned condition and therefore, was helped by the social worker of Childcare Helpline. As on today there is no material to indicate that she was carrying pregnancy due to the act of the applicant. It is in these circumstances, the applicant deserves to be enlarged on bail.

6 It is made clear that the observations hereinabove are prima

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facie in nature and 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.

7 Hence, the 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 tamper with the evidence.

8 The application disposed of accordingly.

Aruna
Sandeep
Talwalkar

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by Aruna
Sandeep
Talwalkar
Date: 2018.07.26
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[SMT. SADHANA S. JADHAV, J.]