

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

BAIL APPLICATION NO.2000 of 2018

Kishor Kailash Jagtap	...Applicant
Versus	
The State of Maharashtra	...Respondent

.....

Mr. Abhijit Y. Patil for the Applicant.
Mr. S.R. Agarkar, APP for the Respondent-State.
Mr. Ankush D. Borod, API, Malegaon Police Station, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 4th OCTOBER, 2018.

P.C.:-

This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Sessions Case No.72 of 2018 pending before the learned Additional Sessions Judge, Malegaon. The aforesaid case arises from C.R. No.I-36 of 2018 registered with Malegaon Police Station, District-Nashik, for offences punishable under Sections 363, 366 A, 376(h) (i)(n) of the Indian Penal Code, 1860 and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012.

2. Heard Mr. Abhijit Patil, the learned counsel for the Applicant and Mr. S.R. Agarkar, the learned APP for the Respondent

-State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by father of the prosecutrix. He had stated that on 5.2.2018 his minor daughter, who was about 15 years of age was missing from the house. He suspected that the Applicant, who was his neighbour had kidnapped his daughter. Subsequently, the victim and the Applicant were traced at Ahmedabad. The statement of the victim was recorded. Perusal of her statement reveals that the Applicant was known to her. The prosecutrix had stated that her parents had arranged her marriage and that she was in fact married on 2.2.2018. She stayed at her matrimonial home for three days and thereafter returned to her parental home on 5.2.2018. On 5.2.2018 she had called the Applicant and told him to meet her. Accordingly, the Applicant met her at Datta Nagar Road at about 8.30 p.m. The victim had stated that she had told the Applicant that they should run away and accordingly she and the Applicant went to Ahmedabad. She has stated that she did not have any relationship with the Applicant after she had eloped to Ahmedabad with him.

4. The material on record indicates that the prosecutrix was pregnant and the foetus was aborted. The DNA test shows that the Applicant is a biological father.

5. The material on record thus prima facie indicates that the Applicant has had sexual relationship with the minor girl. Though the relationship was consensual, it amounts to statutory rape considering the fact that the prosecutrix was below 18 years of age. However, considering the fact that charge sheet has been filed, in my considered view presence of the Applicant is no longer required in the custody. The Applicant is a permanent resident of District-Malegaon and hence, there are no chances of his absconding or thwarting the course of justice. The learned APP submits that there are no criminal antecedents against the Applicant. In the light of above this is a fit case for grant of bail.

6. Under the circumstances, the application is allowed on following terms and conditions:-

- (i) The Applicant is ordered to be released on bail on furnishing bail bonds of Rs.50,000/- with one or two solvent sureties in the like amount.

- (ii) The Applicant shall report to Investigation Officer or Sr.P.I. of Malegaon police Station on first Monday of every month, until further orders.
- (iii) The Applicant shall furnish his permanent as well as temporary address, if any, and his contact details to the concerned police station.
- (iv) The Applicant shall not change his residential address without prior intimation to the concerned Investigation Officer.

(SMT. ANUJA PRABHUDESSAI, J.)

Megha
Shridhar
Parab

Digitally signed
by Megha
Shridhar Parab
Date:
2018.10.10
12:25:36
+0530