

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

**BAIL APPLICATION NO.1991 OF 2017**

|                          |      |            |
|--------------------------|------|------------|
| Sachin Bharat Dhole      | .... | Applicant  |
| <u>Vs.</u>               |      |            |
| The State of Maharashtra | .... | Respondent |

Mr. Jaydeep D. Mane for the Applicant.  
Mr. Y.M. Nakhwa, APP for the State.

***Coram : Smt. Sadhana S. Jadhav, J.***  
***Date : 18<sup>th</sup> January, 2018***

P.C.:

1            Heard the learned counsel for the applicant and the learned APP. Perused the papers of investigation.

2            This is an application under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 5<sup>th</sup> March 2017 in Crime No.259 of 2016, registered at Sangola Police Station initially for the offence punishable under Section 363 Indian Penal Code. The investigation is completed and the charge-sheet is filed on 1st June, 2017 against the applicant for the offences punishable under Sections 363 and 376 read with 34 Indian Penal Code and Sections 4, 8 and 12 of Protection of Children from Sexual Offences Act, 2012.

3           It is the case of the prosecution that on 6<sup>th</sup> February 2017, Pandurang Namdev Pawar lodged a report at the police station alleging therein that on 5<sup>th</sup> February 2017, at night his daughter Ms. “X” had left the house without informing anybody. She had not returned home. He had enquired with her friends and relatives and therefore he suspected that she had been kidnapped by some unknown persons for some unknown reasons. He went to the police station and lodged the report. The said report was treated as a missing complaint. On 5<sup>th</sup> February, 2017, Ms. “X” was found at Vasmat, District Hingoli in the company of the present applicant. The investigating officer recorded her statement on 6<sup>th</sup> March, 2017. She disclosed to the police that everyday on her way to the school, she used to visit the temple to offer her prayers. She met the applicant as he happens to be a good friend of her friend namely Priyanka. They got acquainted with each other. They used to converse with each other regularly. Once he had proposed to her by disclosing that he is in love with her. That on 4<sup>th</sup> February 2017, she had visited the hospital of Dr. Ajalkar. The applicant also reached to the said hospital and had told her that on the next day, at 10.45 pm., she should wait for him at the water tank and they would elope and get married. At that relevant time, the applicant was accompanied by his friend also. Without any hesitation or any second thought, Ms. “X” had abandoned her house on the next day at 10.30 pm. She had taken

her clothes and other necessary articles alongwith her identity card. They had left on the motorcycle alongwith their friend, Sufiyan alias Bablu Tayab Bendrekar. They had gone to Vasmat. With the help of his friend, the applicant had rented a room, where they resided for one month. According to Ms. "X", she was persistently asking the applicant as to when they would get married and he had assured her that they would soon get married. She has further stated that she had sexual intercourse with him. They resided in the said room for nearly one month i.e. till the date they were found at Vasmat.

4            Learned counsel for the applicant submits that Ms. "X" was carrying her identity card alongwith her, which clearly shows that her date of birth was 12<sup>th</sup> April 2001. The applicant had intended to get married to her. However, since she was less than 18 years, they could not have get married. Ms. "X" was taken to the hospital for clinical examination. She had no complaints against anybody. Learned counsel for the applicant submits that although she was a minor, she had attained the age of understanding and discrimination. She had voluntarily left the house alongwith the applicant. It cannot be said that the applicant had forced her to accompany him, neither Ms. "X" has stated that she was forced to have sexual intercourse with the applicant.

5           Upon perusal of the papers of investigation, more particularly the statement of Ms. “X”, this court is of the opinion that the applicant deserves to be enlarged on bail. However, it is made clear that the observations are restricted to the application under Section 439 Cr.PC. and shall not be taken into consideration for the purpose of quashing of F.I.R., discharge application or at the time of trial. Hence, the order :

**ORDER**

- 1           The application is allowed.
- 2           The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.
- 3           The applicant shall not reside in Sangola, District Solapur till framing of the charge.

**( Smt. Sadhana S. Jadhav, J)**