

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

BAIL APPLICATION NO. 2360 OF 2018

Ravi Vishnu Bagadi

... Applicant

Vs.

State of Maharashtra

... Respondent

...

Mr. H.S. Shinde for the applicant.

Mrs. G.P. Mulekar, APP for the Respondent-State.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 27th SEPTEMBER, 2018.

P.C.

1. Applicant is seeking bail in connection with C.R. No. 13 of 2015 registered with Sewree Police Station for the offences punishable under Sections 363, 376 of Indian Penal Code and Sections 4,8,12 of POCSO Act. FIR was lodged on 16th February, 2015. Applicant was arrested on 10th September, 2017.

2. Complaint was lodged by Smt. Roshni Gavruk. Her daughter used to carry lunch tiffin to the factory of her father. She had developed friendship with Imran who was working in factory of her father. On 12th February, 2014 she was talking to some one on phone in the bathroom. She was questioned by complainant. When the complainant was about to give call to her husband, victim ran out of house. It was revealed that victim had called

Imran and was talking to him. Subsequently she was found at Thane Railway Station. On 13th February, 2015, she again left house and was missing. Hence, complaint was lodged on 16th February, 2015 vide C.R. No. 13 of 2015 under Section 363 of Indian Penal Code. Imran was also missing. Both could not be traced. Hence, case was closed by granting 'A' Summary. On 2nd June, 2017 victim was traced and brought to Police Station. She disclosed that on 13th February, 2015, victim left the house and reached Wadala Railway Station. Accused No.3 met her and took her to Delhi and sent her for work of house keeping work for four to five months. Accused No.3 took the salary of the victim. Thereafter accused No.3 and husband (applicant) brought the victim to Mumbai in August. Accused Rajiv Chavaria was with them. On the next day, Rajiv Chavaria came to the house of accused No.3 and took the victim with him. Thereafter, the victim was taken to temple and marriage was performed with Rajiv Chavaria. There was physical relationship between them. Victim gave birth to child. The said accused tortured her.

3. Accused Rajiv Chavaria preferred an application for bail before the Sessions Court which has been allowed by order dated 5th January, 2018. The applicant preferred application for bail

before Sessions Court which was rejected on 4th June, 2018.

4. It is submitted by the learned counsel for the applicant that there is no allegation of sexual assault against the applicant. He is in custody from the date of arrest. Role attributed to the applicant is that he alongwith his wife had taken victim to Delhi and made her to work as housekeeper. Main accused has been granted bail. Victim had a past history of running from house. She had left the house voluntarily. During the stay of two years victim never tried to run away from house and she never approached police. The victim was of age of sufficient understanding. The victim disclosed age of majority at the time of delivery of child.

5. Learned APP submitted that the victim was minor at the time of incident when the victim was taken by the applicant and his wife. Applicant's wife is absconding. Applicant is not disclosing whereabouts of his wife. The applicant had compelled the victim to marry co-accused.

6. As stated above, there is no allegations against the applicant that he had sexually assaulted the victim. The charge under Section 376 of Indian Penal Code is not attributed to the applicant. Co-accused with whom the victim has performed the marriage and delivered a child was granted bail by the Sessions Court on 5th

January, 2018. There is no need of further detention of the applicant. Investigation is completed and chargesheet has been filed. The victim in her statement dated 22nd June, 2017 has stated that her father had two wives. Her real mother was residing at Panvel. The complainant is her step mother. Her step mother used to ill-treat her. She used to provoke her father who used to frequently assault her. On account of their fear, she ran away from the house on 13th February, 2015 and went to Wadala Railway Station. Then she narrated as to how she was taken to Delhi by co-accused. She did not allege any sexual harassment by applicant. Co-accused Rajiv Chavaria took her to temple and performed marriage. She delivered child. Due to harassment, she managed to run away and went to her house at Panvel. She has not stated that applicant and his wife had forced her to marry co-accused Rajiv Chavaria. Hence, case for grant of bail is made out.

ORDER

- i) Criminal Bail Application No. 2360 of 2018 is allowed;
- ii) The applicant is directed to be released on bail in connection with C.R. No. 13 of 2015 registered with Sewree Police Station on furnishing P.R. Bond of Rs.20,000/- with one or more sureties in the like amount;

- iii) The applicant shall attend Sewree Police Station once in a month on first Saturday between 10 a.m. to 12 noon till further order;
- iv) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses;
- v) The application stands disposed off.

(PRAKASH D. NAIK, J.)

Sachidanand
Kuttan Nair

Digitally signed
by Sachidanand
Kuttan Nair
Date:
2018.09.29
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