

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2709 OF 2017***

Nitin @ Thakal S/o Bhausahab Alhat	Applicant
Versus	
The State of Maharashtra	Respondent

Mr. Vaibhav V. Ugle, for the applicant.
Mr.S.H.Yadav,APP, for the State.
Mr. V.V.Khedekar, PN, Yerwada Police Station, Pune.

***CORAM : SMT. SADHANA S.JADHAV, J.
DATE : 2nd February, 2018.***

P.C. :

1. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 14.4.2017 in Crime No.156 of 2017 registered at Yerwada Police Station for the offence punishable initially under Section 363 of the Indian Penal Code. The investigation is completed and charge sheet is filed against the applicant under Sections 363, 366A and 376 of the Indian Penal Code.

2. It is the case of the prosecution that on 13.2.2017, Mangala Gaikwad lodged a report at the police station alleging therein that on 24.1.2017, at about 8.30 p.m., she had sent her daughter to bring milk. Her

daughter who is aged about 17 years old had not returned home. According to the complainant, some person had abducted her. Hence, offence was registered under Section 363 of IPC against unknown person. In the course of investigation, the victim was found out on 11.4.2017 in the house of the present applicant. Her statement was recorded on 14.4.2017.

3. According to the victim, her maternal cousin Rohini was married to the present applicant. He used to visit the house of the victim quite often. At the time of one visit, he had gifted her with a cellphone and used to converse with her on the cellphone. He had expressed his love for her and had proposed to her. However, since he is already a married man, she refused to get married to him. The applicant is alleged to have continued to lure her even thereafter. On 24.1.2017, he called upon the victim to meet him near Gunjan Theatre at Yerwada. The victim had obliged. When she had been to meet him, he told her to accompany him in order to get married. She flatly refused to get married. He coerced her to accompany him and he had initially taken her to Waghuli and from there to Ahmednagar. On 25.1.2017, he had hired a room at Sidharth Nagar and they were staying there. After he had established sexual relations with her, she had insisted upon him to get married. However, he avoided to

reciprocate. On 8.4.2017, he had taken the victim to his house at village More-Chinchore. He dropped her in his house. On 9.4.2017, he had left the house on the pretext to meet a friend and did not return. The police had reached the house of the applicant and had taken the custody of the victim girl. She was taken to Sassoon Hospital, where the doctors had informed her that she had conceived pregnancy.

4. *It is a matter of record that the applicant is a married man and a father of four children – 3 daughters and one son. The victim was hardly 17 years old at the time of incident. The applicant had coerced her to accompany him. In all probabilities, when he had realized that she had conceived pregnancy, she was abandoned by the applicant. This is a case of cheating.*

5. The learned counsel for the applicant vehemently submits that in fact, the victim had voluntarily accompanied the applicant. She was almost 17 years and had attained the age of understanding and, therefore, it is to be presumed that there was consensual sex between the applicant and the complainant. The said submission cannot be taken into consideration in the facts of the case as the applicant was not only a married man, but a father of four children and moreover he had abandoned the victim after realizing

that she had conceived pregnancy. In the facts of the case, the applicant does not deserve to be enlarged on bail.

6. The above observations are restricted to an application under Section 439 of Cr.P.C.

7. The application stands dismissed.

(SMT. SADHANA S.JADHAV, J.)