

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

BAIL APPLICATION NO. 2939 OF 2018

Prasad Prabhakar NaravadeApplicant

V/s.

The State of MaharashtraRespondent

Mr. Aaditya A. Gore for the applicant.

Mr. S.R. Agarkar, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 02nd NOVEMBER, 2018.

P.C.:

. This is an application under Section 439 of Criminal Procedure Code filed by the aforesaid applicant, who has been arrested in C.R.No.98/2017 registered at Aalephata Police Station, Dist. Pune for offences punishable under sections 363, 376, 376(n) r/w. 34 of the Indian Penal Code and Section 4, 6, 8 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

2. Heard Mr. Aaditya A. Gore, learned counsel for the applicant. Mr. S.R. Agarkar, learned APP for the 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 first information report lodged by Ramdas Mahadu Kurhade, the grand father of the prosecutrix. The first informant has stated that the prosecutrix is 17 year old girl and she is studying in 12th standard at Dnyandeep Mandir Junior College. On 19/06/2017, at about 06:45 a.m., she had left the house to go to college. She had not returned till about 10:00 p.m. They had, therefore, given a missing report on 21/06/2017. He has stated that the victim girl was traced on 24/06/2017. On 28/06/2017, at about 07:20 a.m., the prosecutrix once again left the house under the pretext of going to college. The first informant went to the college and inquired about his grand daughter and learnt that the prosecutrix had not attended the college. Since the prosecutrix had not returned home, he lodged the first information report against an unknown person for kidnapping his grand daughter.

4. The prosecutrix was traced on 02/09/2017. In her statement which was recorded under section 161 of Cr.P.C., the prosecutrix claimed that she had left the house as she could not get along with her grand parents. She went to Pune and stayed in the house of one Sagar Shetty. She has stated that on 01/09/2017, at about 09:00 p.m., she

had gone with Sagar Shetty and his family to see Ganesh idols. She has stated that she met Akshay Kaldante who recognized her and told her about the missing report lodged by her grand father. She has stated that thereafter, Sagar Shetty and his family took her to Vishram Baug Police Station. She was sent to Aalephata Police Station and later, her custody was handed over to her grand father.

5. The prosecutrix had not levelled any allegations against the applicant in the statement recorded under section 164 of Cr.P.C. The records reveals that in the supplementary statement recorded by the police on 14/12/2017, the prosecutrix had alleged that the co-accused Rameshwar had raped her in the year 2014. She had stated that the applicant herein had sexual intercourse during the period from February 2016 to February 2017. Hence, prima facie there is variance between the statement dated 14/12/2017 and 16/02/2018 and this would justify grant of bail. Furthermore, the applicant is in custody since 21/02/2018. The investigation is concluded and the charge sheet has already been filed. Hence, presence of the applicant is not required for interrogation or investigation. The applicant is a permanent resident of Ambi Dumala, Taluka Sangamner, Dist. Ahmednagar and there is no possibility of the applicant absconding or fleeing from

justice. The applicant has no criminal antecedents.

6. Considering the above facts and circumstances, the Applicant is entitled for bail. Hence, the Application is allowed on the following terms and conditions :-

(a) The applicant who is arrested in C.R.No.98/2017 registered at Aalephata Police Station, Dist. Pune is ordered to be released on bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty Thousand) with one or two solvent sureties in the like amount.

(b) The applicant shall furnish his permanent address and temporary address, if any, and his contact details to the concerned Court.

(c) The applicant shall not change his residential address without prior intimation to the Investigation Officer and to the concerned Court.

(d) The applicant shall not interfere with the prosecutrix and other witnesses in any manner and shall not tamper with the evidence.

(e) The applicant shall report to the Investigation Officer and in his

absence to the Senior Police Inspector, Aalephata Police Station on 01st
Monday of every month until further orders.

(SMT. ANUJA PRABHUDESSAI, J.)