

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

BAIL APPLICATION NO. 2859 OF 2017

Vishal Vilas Kadam.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Aniket U. Nikam I/b. Mr. Aashish Satpute, Advocate for Applicant.

Mr. S.H. Yadav, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 24, 2018**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 9/7/17 in Crime No. 269/2017 registered at Kondhwa Police Station. Investigation is completed and charge-sheet is filed against the applicant under section 376, 354(d), 506 of the Indian Penal Code

and under section 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3 It is the case of the prosecution that the niece of the applicant Ms. X lodged a report at the police station on 9/7/2017 alleging therein that on 4/12/2016 in the afternoon at about 3.30 p.m. the applicant whom she treated as maternal uncle had come home in the absence of her parents. She was asked to serve food to him as there was nobody in his house. As soon as she reached his house, the applicant had caught her with an ill intention and had behaved in an inappropriate manner. Thereafter, he has forced himself upon her and had ravished her. He had threatened her of dire consequences. Thereafter, he had called her home but since she was scared, she did not go to his house. He was stalking her. In January, 2017 when she was returning home from school, he had informed the victim that he has taken a video clip of the act committed by him and if she refuses to his offer, he would make it viral. She was worried about her parents and therefore had maintained silence. But on 8/7/2017 she

had learnt about the Damini group who had taken up cause of women. She had heard the lecture of her teacher who had apprised girl students that they shall not be scared to disclose any atrocities committed upon them especially by the close friends or relatives. The teachers had apprised girl students to disclose the same to their parents and therefore, she decided to call upon her close relatives namely Promod Magar and had disclosed to him about the trauma which she had to go at the hands of the present applicant. Thereafter, the family members had given her courage and they all had been to the police station and lodged report on the basis of which Crime No. 269 of 2017 is registered.

4 The victim was taken for clinical examination on 10/7/2017. Ms. X has disclosed to the doctor that the present applicant was having friendly relations with her family. On 4/12/2016 she had been to the house of the applicant and thereafter, he had molested her and sexually abused her and thereafter, was indulging into blackmailing by threatening her that he would make the video clip viral.

5 Upon perusal of the papers of investigation, more particularly, statement of the victim given to the doctor as well as to the police, this Court is of the opinion that the applicant does not deserve to be enlarged on bail.

6 However, it is made clear that the observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the same shall not be considered at the time of trial.

7 The application being sans merits stands rejected.

(SMT. SADHANA S. JADHAV,J)