

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2871 OF 2017***

Ajay Vitthal Digole

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Aniket Nikam a/w Mr. Aashish Satpute, for the applicant.

Ms.S.S.Kaushik,APP, for the State.

Mr. M.D.Khande, H.C. Dighi Police Station, Pune, present.

CORAM : SMT. SADHANA S.JADHAV, J.

DATE : 12th January, 2018.

P.C. :

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 10.5.2017 in C.R.No.80 of 2017 registered with Dighi Police Station, Pune The investigation is completed and charge sheet is filed against the applicant for the offence punishable under Section 376 of the Indian Penal Code and Sections 3 and 4 of Protection of Children from Sexual Offences Act.
2. It is the case of the prosecution that on 8.5.2017, one Ms. `X' resident of Village Satala lodged a report with the Police Station alleging

therein that she was in love with the present applicant for more than 2 years. The applicant is the original resident of village Kumtha. That the applicant had secured a job in a mobile shop at Pune. The applicant was insisting upon the complainant to visit him at Bhosari, Pune. On 6.4.2017, the first informant had left her house on her own accord and had boarded a bus to Latur. She had then boarded a train to Pune. On 7.4.2017, she reached Pune. The applicant had been to the Railway Station to receive her. Thereafter, the first informant and the applicant had been to a lodge at Pune. That they were to get married and therefore, they had sexual sex in the lodge. After the said incident, the applicant had allegedly taken her to Bhosari Bus stop and had informed her that he does not wish to marry her. He had also informed her that he is in love with another girl and would get married to her. According to the complainant, she was in distress. Therefore, she decided to visit her friend's sister's house at Perma Phata. Her name was Sonali. The husband of Sonali had received her at the bus stop. He had taken her home and it is alleged that thereafter she was ravished by the husband of Sonali. On the basis of her report, Crime No. 80 of 2017 was registered with Dighi Police station. The investigation is completed and charge sheet is filed.

3. The learned counsel for the applicant has drawn attention to the School Leaving Certificate of the first informant which shows that her date of birth is 14.9.2000. That on the date of alleged incident, she was 16 years and 6 months old. The learned counsel has vehemently submitted that even according to the first informant, the applicant had not forced himself upon her. She had voluntarily been to Pune. She has specifically stated in the first information report that she had consented to have sexual intercourse and therefore the applicant deserves to be enlarged on bail.

4. As against this, the learned APP has vehemently opposed the grant of bail and has submitted that in any case, the first informant had not attained majority and therefore her consent cannot be taken into consideration. It is submitted that the subsequent incident had occurred because she was left alone by herself.

5. The learned counsel for the applicant further submits that the applicant was not acquainted with Sonali nor he knew the husband of Sonali and therefore, the applicant had not directed the first informant to go to the house of Sonali. It is submitted that a discordant note had struck between the applicant and the first informant who were in love with each other and therefore, it cannot be said that the act committed by the applicant was not

a consensual act.

6. Taking into consideration the papers of investigation, the material on record and the submissions advanced across the Bar, this Court is of the opinion that the applicant has made out a case for grant of bail. Moreover, the parents of the first informant and her brother had filed an affidavit before the Sessions Court that they have no objection for grant of bail to the present applicant. The possibility that they may get married cannot be ruled out. It is in these circumstances that the applicant deserves to be enlarged on bail.

ORDER

- (i) The application is allowed.
- (ii) The applicant is 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.

The application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)