

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

BAIL APPLICATION NO. 2915 OF 2017

Sangram Kailas Sarwade.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Satyavrat Joshi, advocate for Applicant.

Mr. Y.M. Nakhwa, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 19, 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 7/4/2017 in Crime No. 87/2017 registered at Sanghvi Police Station. Investigation is completed and charge-sheet is filed against the applicant under section 363, 366A, 376 of the Indian Penal Code and section 3,4,5, 6,

7, 8, 11 and 12 of the Protection of Children From Sexual Offences Act, 2012.

3 It is the case of the prosecution that on 2/12/2017 Surekha Sarvade who happens to be the maternal aunt of the present applicant lodged a report at the police station that on 1st March, 2017 her minor daughter has been kidnapped by some unknown person. Subsequently her daughter was found in the company of the present applicant on 5th April, 2017. Her statement was recorded on 6th April, 2017. She has disclosed to the police that the present applicant happens to be her first maternal cousin. He was staying in his aunt's house. That they had developed intimacy towards each other. Their intimacy was objected by both the families and they had been warned about the same. On 1st March, 2017 Ms. X left the house to attend college. The applicant picked her up. They had been to Warje Malvadi, rented a room and stayed there. The applicant had purportedly assured that he would get married to her after she attains age of majority i.e. after she attains 18 years. Since they wanted to

get married, they had consensual sex on several occasions. Ultimately they were traced on 2nd April, 2017.

4 The victim was taken for clinical examination where she had disclosed to the doctor that she was in love with the applicant who happens to be her first cousin and was working in Reliance Company at the relevant time. Since their intimacy was known to the family members, he was asked to leave the house and thereafter, on 1st March, 2017 she had voluntarily left the house with the applicant and had resided at Warje Malwadi for one month. They had consensual sex on several occasions.

5 The victim has disclosed to the Investigating Officer on 7/4/2017 that she does not wish to reside with her parents as she apprehends danger to her life and she is willing to stay in remand home. Thereafter, parents had convinced her to join their company and since then she is residing with her parents. The statement of the victim is thereafter recorded under section 164 of the Code of

Criminal Procedure, 1973, wherein she had disclosed that he had sexual relations with her against her will.

6 Prima facie, it appears that the victim had voluntarily withdrawn herself from guardianship of her parents and joined company of the applicant. The applicant had no intention of cheating her. The applicant had assured her that he would get married once she turns 18 years of age. Considering the facts of the case and the material collected in the course of investigation, more particularly, the statement of the victim before the police and at the time of clinical examination. In the facts mentioned above, this Court is of the opinion that the applicant deserves to be enlarged on bail.

7 However, it is made clear that the above observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration while deciding application for discharge or quashing FIR or at the time of trial.

8 Hence, following order is passed :

ORDER

(i) The application is allowed.

(ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- and one or more solvent sureties in the like amount.

(iii) The applicant shall not enter into the jurisdiction of Chaturshrungi Police Station, Aund and Sanghvi till conclusion of the trial.

(iv) The applicant shall not tamper with the evidence.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)