

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

CRIMINAL BAIL APPLICATION NO.2034 OF 2018

Nitin Sitaram Wankhede	.. Applicant
Vs.	
State of Maharashtra	.. Respondent

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Mr.Sayaji D. Nangre, Advocate for the Applicant.

Mr.Prashant Jadhav, APP for the Respondent – State.

Mr.T.K. Sawant, PSI, Ambernath Police Station, District – Thane,
present.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 7, 2019.

P.C. :

This is an application for bail under Section 439 of Code of Criminal Procedure in connection with C.R.No.I-340 of 2017, registered under Section 363 of Indian Penal Code (“IPC”, for short). Subsequently, Sections 366, 370, 420, 468, 471 and 120-B of IPC were added. First Information Report (“FIR”, for short) was lodged by the victim on 31st December, 2017 with Ambernath Police Station, District-Thane. The case of the prosecution is that the victim was a minor and missing from the house. Hence, complaint of kidnapping was lodged by the informant. FIR was initially registered under Section 363 of IPC.

Investigation disclosed that accused in-furtherance of common intention had kidnapped the minor girl and taken her to Aurangabad and then Surat in Gujarat and her marriage was solemnized on the basis of fabricated documents. The documents were fabricated to show that the victim girl was major at the time of marriage. Statement of victim was recorded on 10th February, 2018, in which she has stated that she had gone with the co-accused to Aurangabad and then to another place. She was misrepresented and was threatened by the accused. Her marriage was performed with one Bhavesh Kapora from Surat. Victim has also stated that there was no physical relationship between her and the said person. Statement of victim was also recorded under Section 164 of Code of Criminal Procedure.

2 The gravamen of the charge against the applicant is that he had fabricated the documents such as Aadhar Card and School Leaving Certificate of the victim, which were used to show that the victim was major at the time of performance of marriage. The prosecution has based its case on the fact that the co-accused has made the statement that the applicant has produced the said fabricated documents. There is no independent evidence to show that the documents were tendered by the applicant to the

co-accused, which were used for performance and registration of marriage. Learned APP, however, submitted that the QR Code on the Aadhar Card belongs to applicant. Thus, at the most, the applicant has been charged for fabrication of the documents. He is in custody from 16th February, 2018. Investigation is completed and charge-sheet has been filed. The prosecution could not put forth any other evidence to show that the applicant has participated in misrepresenting, threatening and performing the marriage of the victim. Considering the aforesaid circumstances, the applicant can be granted bail. Hence, case for grant of bail is made out.

3 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.2034 of 2018, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.I-340 of 2017, registered with Ambarnath Police Station, District-Thane, on his furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

- (iii) Applicant shall attend Ambernath Police Station, District-Thane, once in a month on first Saturday between 11:00 a.m. to 01:00 p.m, till further orders;
- (iv) Applicant shall not tamper with the evidence;
- (v) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)