

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

CRIMINAL BAIL APPLICATION NO. 3166 OF 2018

Harshad Mansukh Solanki	... Applicant
Vs.	
The State of Maharashtra	... Respondent

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Mr. Kuldeep Patil for the applicant.
Mr. S.R. Agarkar, APP for the Respondent-State.
Mr. Bhagwan H. Jadhav, PSI, Charkop Police Station is present.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 21st FEBRUARY, 2019.**

P.C.

1. This is an application for bail in connection with C.R. No. 152 of 2018 registered with Charkop Police Station. The complaint was lodged by the mother of the victim alleging that the victim was missing from the house from 19th April, 2018. First Information Report was registered for the offence punishable under Sections 363 of Indian Penal Code. Subsequently, the victim was traced on 5th May, 2018 alongwith the accused. Her statement was recorded. In the statement she has stated that on 17th April, 2018 the accused had forcibly given her cell phone and threatened if she refused to take cell phone than he would cause

harm to her parents and brother. On 19th April, 2018 the victim left the house and met the applicant. He was accompanied by unknown persons. She was made to sit in the vehicle and taken Indira Nagar, Village Demol, Nadiyad City, Tal. Petlat, Dist. Anand, State of Gujarat. She stayed with the applicant at the said place from 19th April, 2018 till 5th May, 2018. Accused had forcible physical relationship with her and also tied Mangalsutra. She was brought to Mumbai on 5th May, 2018. The applicant was arrested on 5th May, 2018. Investigation is completed and chargesheet is filed.

2. Learned counsel for the applicant drew my attention to the chargesheet and submitted that relationship was consensual. Applicant and the victim had an affair. Applicant's wife has separated from him on account relationship with victim. Learned counsel for the applicant also drew my attention to the statement of Harish Waghela recorded on 15th June, 2018 who has stated that the applicant and the victim had represented themselves as husband and wife and were staying together.

3. Learned APP however submitted that the victim was minor at the time of offence and therefore her consent if any is immaterial. Victim has not supported the case of the applicant.

Her statement was recorded under Section 161 and 164 of Code of Criminal Procedure wherein she stated that she was forcibly taken by the applicant and his associates and the alleged acts were committed without her consent. It is submitted that medical evidence also supports the prosecution case.

4. I have perused the chargesheet. The victim was missing from the house from 19th April, 2018. First Information Report was lodged on 20th April, 2018. The victim was with the applicant from 19th April, 2018 till 5th May, 2018. During the course of investigation, the statement of the wife of the applicant was recorded in which she has stated that she is residing separately on account of the affair of applicant with victim. Victim was aged about 17 years and four months. The chargesheet contains the photographs of the applicant and the victim attending some ceremony at Gujarat. Statement of Harish Waghela also indicates that victim and the applicant had represented to him that they were married. Investigation is completed and the chargesheet has been filed. Although, the victim has alleged that she has been forcibly taken by the applicant, it appears that she was with the applicant from 19th April, 2018 to 5th May, 2018. In the light of the factual matrix of the case, bail can be granted. Hence, I pass

the following order.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with C.R. No. 152 of 2018 registered with Charkop Police Station on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. Applicant shall report to the concerned Police Station once in a month on first Saturday between 11 a.m. to 1 p.m. till further order;
- iv. Applicant shall not tamper with the evidence;
- v. Application stands disposed off.

(PRAKASH D. NAIK, J.)