

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

CRIMINAL BAIL APPLICATION NO. 1269 OF 2020

Gaurishankar Laxminarayan Gupta ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Devidas Jadhav I/b. Mr. Dhananjay Kendre, Advocate for the Applicant.

Ms. M. R. Tidke, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 10th MARCH, 2021

PER COURT:

1. The applicant is arrested on 28th June, 2019 in connection with C.R. No. I-249 of 2019 registered with Ulhas Nagar Police Station, Dist. Thane. On the complaint of mother of victim, FIR was registered on 21st June, 2019 for offence under Sections 363 of Indian Penal Code.

2. According to complainant her daughter (victim) was missing from the house from 20th June, 2019. The age of the victim was 17 years. Supplementary statement of complainant was recorded on 23rd June, 2019. She stated that victim was working with applicant. They were friendly. Applicant used to visit their house. On 22nd June, 2019 victim was dropped in the house of sister in law of

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complainant at Badlapur by applicant. Victim was then taken to police station and sent for medical examination. The victim disclosed to complainant that, she was in love with applicant. She used to talk with applicant through phone provided by him. On 20th June, 2019, applicant told the victim to tell her parents that she is going to Surat. Victim left home without informing anyone. She met applicant at Kalyan station. She was told to stay with his niece at Surat and he would follow her. Applicant booked train and went to Surat. She went to house of applicants sister. On next day on 21st June, 2019, she again returned to Surat station and came back to Kalyan. Applicant met her at Kalyan station. She accompanied applicant to Mhalgaon and stayed in his house in the night. Under promise of marriage applicant established physical relationship. On next day applicant refused to marry her. She consumed her medicinal tablets. The statement of the victim was recorded under Sections 161 & 164 of Cr.P.C. In the statement under Section 164 of Cr.P.C. recorded on 27th June, 2019, the victim girl has stated that she was working with applicant. She developed liking for him. On 9th August, 2018 the victim told her parents that she is in love with the applicant. The father of the victim did not like it. Her parents got angry with her. The victim left the house. The applicant told her to return to her house. She was not interested in returning home. She went to the

house of the applicant. The applicant then expressed his affection to her. He told her that he would marry her and assured that he would divorce his wife. Victim met applicant. On 28th February, 2019, the applicant advised her to board the train and alight at Karjat Railway Station. As decided by both, the victim got down at Karjat Railway Station. The applicant was waiting for her. Both of them went to lodge. There was physical relationship between them against her wishes. Thereafter, they went to another lodge. The applicant received a phone call from the police. He was informed that the victims mother had lodged the complaint with police. The applicant insisted that she should return home. The applicant told victim to return to her house. The victim wrote a chit as decided by both stating that she was fed up with her parents and her father had subjected her to sexual assault. Thereafter, the victim went to Kalyan Railway Station. Inquiry was made with her. She was sent home. She met applicant. On 20th June, 2019 victim left home. She met applicant. Both of them went to lodge. There was physical relationship. She was advised to board the train and go to Surat to the relative of applicant Moni Gupta. The victim then went boarded train and went to Surat. She met relative of the applicant. Her relative told her that she was subjected to sexual assault by the applicant and that he has exploited other girls. Thereafter, she met

the applicant at Kalyan Railway Station and met him at lodge. He threatened her. She was shown video. There was forceful sexual relationship. She consumed tablets and fell unconscious. She was dropped at her uncle's place. Thereafter, she was sent for medical examination.

3. The supplementary statement of complainant (mother of victim) indicate that the victim had not disclosed several facts. Subsequently in statement dated 27th June, 2019, the victim has make several allegations. The statement of victim was recorded under Section 161 of Cr.PC. There is improvement in her statement under Section 164 Cr.PC.

4. Learned counsel for the applicant submits that the applicant is in custody from 28th June, 2019. The victim was aware that the applicant was married person. Although the applicant told her to return to her parents home, she insisted on joining the applicant. The relationship was of consensual nature. There is no evidence to corroborate the version of the applicant as reflected in her statement under Section 164 of Cr.PC. about the character of the applicant. Moni Gupta had not corroborated the version of the victim, Even after knowing the character of the applicant, there was physical relationship between them.

5. Learned APP submitted that victim was minor. There was forceful physical relationship. Aadhar Card was prepared to show that the victim was major.

6. On perusal of the FIR it is apparent that the victim was working with the applicant. She was aware that he is married person. She left the house on her own. The applicant told her to return to her parents. She insisted and join the applicant. Both of them had visited lodge. There was physical relationship. In the statement under Section 164 of Cr.P.C. the victim has referred to the character of the applicant allegedly disclosed to her by the applicant's relative Mouni Gupta. However, in the statement of Mouni Gupta, she has not stated so. Even after learning about the character of the applicant, there was physical relationship. In these circumstances, further detention of the applicant is not necessary. Investigation is completed. Charge-sheet is filed. He is in custody for a period of about 18 months. There are no criminal antecedents against the applicant. Hence, I pass the following order:

ORDER

- (i) Criminal Bail Application No. 1269 of 2020 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No. I-249 of 2019 registered with Ulhas Nagar Police Station, Dist. Thane, on executing PR. Bond in the

sum of Rs.25,000/- with one or more sureties in the like amount;

(iii) The applicant shall report concerned Police Station once in three month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;

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

(v) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)