

ORDER BELOW EXH.1 IN CRIM. M.A.NO. 1156/2015

1] The applicant has moved this court under Section 439 of Cr. P. C. for the offences punishable under Sections 363, 366(A) of the Indian Penal Code and under Secs. 4 and 8 of the Protection of Children from Sexual Offences Act, 2012. It is alleged that the complainant is the mother of victim girl. On 03 March, 2015 the applicant gave false assurance and commitment to the victim girl, and kidnapped her on his bike from the lawful guardianship of her parents. Thereafter during the investigation it was revealed that applicant committed rape on her. Thereafter he left the victim girl on his motorcycle at Main Road, Kondhwa Khurd. The FIR thus came to be lodged against the applicant.

2] It is contended that applicant is innocent persons, and is falsely involved in the present crime. There are no bad antecedents against the applicants. The applicant and victim girl are having love affairs since last two years and she went with the applicant with her own consent and not under any influence. The investigation is practically over. The applicant is permanent resident of the place mentioned having roots over there. Hence, this is the application.

3] The application is opposed by the State by filing say at Exh.3. It is contended that the investigation is yet to complete and the statement under section 164 is yet to be recorded. It is submitted that if the applicant is released on bail, there is possibility of repeated crime and tampering with the witnesses. The offence is serious one. The victim girl is minor. The rejection is thus prayed for.

4] Heard Ld. Counsel for both the sides. Perused the case papers. It appears from the record that the age of the victim girl is 15 years. According to her, she was taken to various places by accused No.1 and committed rape from time to time. The medical certificate shows that there was penetrative sexual vaginal intercourse. The girl is a minor aged about 15 years whereas applicant is aged about 23 years. The offence is very serious. Considering the statement of victim girl supported by the medical certificate, in my view the prima facie case is made out against the applicant. Certainly there is a possibility of tampering with the prosecution witnesses. Moreover, the investigation is yet to complete. As such, considering the heinousness of offence and the seriousness of the offence, I find it just and proper to reject the application with this, I proceed to pass the

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following order.

ORDER

Application stands rejected.

Date- 16.04.2015.

(Mangala J. Dhote)
Addl. Sessions Judge, Pune.