

**CRI.Bail Appln.no.2791/16****Order Below Ex.1.**

1] The applicant has moved this court under Section 439 of The Code of Criminal Procedure of the offences punishable under Sections 3(1) and 4 of the Protection of Children from Sexual Offences Act, 2012 and under Sections 363 and 376 of the Indian Penal Code. It is alleged that on 03.06.2016 the applicant instigated the daughter of complainant i.e. victim girl by giving assurance of marriage and ran with her and committed rape on the victim girl. FIR thus, came to be lodged against the applicant.

2] It is contended that the applicant has been falsely implicated in this case. Investigation is practically over. No custodial interrogation is necessary. There are no bad antecedents against the applicant. He is permanent resident of Pune, having roots over there. Hence, this is the application.

3] The application is opposed by the State by filing say. It is contended that offence is serious. Victim girl is minor at the time of incident. The applicant forcibly kept sexual relations with the victim girl by giving assurance of marriage. It is submitted that if the applicant is released on bail, there is possibility of repeated crime and tampering with the witnesses. Investigation is yet to complete. The rejection is thus prayed for.

4] Heard learned counsel for both the sides. Perused the FIR, the statement of the victim girl as well as her statement recorded by the Court of JMFC under section 164(5) of Cr.P.C. I have also gone through the medical certificate which shows that there was consensual sexual intercourse on two occasions. There are no

marks of violence. There is no hue and cry by the victim girl. The statement recorded under section 164(5) of Cr.P.C. shows that the victim girl herself left her parental home and requested the applicant to take her outside since she was beaten by her father on the ground of marriage proposal. The entire statement is silent that there was any forcible sexual assault on the victim girl. On the contrary according to her, she had consensual sexual intercourse with the applicant and she has no grievance against the applicant. Moreover, the charge-sheet is submitted after completion of investigation which is substantial change in circumstance as such. Considering all the above aspects particularly the submission of victim girl under section 164(5) of Cr.P.C., I am fully satisfied to enlarge the applicant on bail. With this, I proceed to pass the following order -

**ORDER**

- 1] The application is allowed.
- 2] The applicant Jaber Abdulgani Bagwan be released on executing P. R. bond of Rs. 15,000/-, with one surety in the like amount.
- 3] The applicant shall supply documentary evidence of his permanent address and shall file affidavit in support thereof.
- 4] The applicant shall not tamper with the prosecution witnesses in any manner and shall co-operate the investigating agency as and when required.
- 5] The applicant shall not meet the victim girl till the trial is over.

Pune.  
Date – 17.08.2016

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

“ I affirm that the contents of the P.D.F. File Judgment are same word for word as per original judgment.

Name of Steno - S.V.Thakar,

Court Name - Smt.Mangala J Dhote, Additional Sessions  
Judge, Pune.

Date of order - 17.08.2016

Order signed by P.O. - 17.08.2016

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