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

BAIL APPLICATION NO.1662 OF 2015

Mahesh Madhukar Chavan	... Applicant
Vs	
The State of Maharashtra	... Respondent

Mr. Vishal L. Kolekar, for the Applicant.

Ms. Rutuja Ambekar, APP for the Respondent – State.

**CORAM : REVATI MOHITE DERE, J.
DATE : 03rd SEPTEMBER, 2015**

P.C. :

1. Heard the learned counsel for the Applicant and the learned APP for the Respondent-State.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R.No.72 of 2015 registered with the Satara Taluka Police Station, Kolhapur, for the alleged offence punishable under Sections 363, 366(A), 376(J)(I), 506 of the Indian Penal Code and under Section 4 of Protection of Children from Sexual Offences Act.

3. The complainant is the father of the prosecutrix who had initially lodged an FIR as against the present applicant alleging an offence punishable under Section 363 of the Indian Penal Code. The said FIR was lodged on 21st March, 2015. After recording the statement of the prosecutrix on 22nd March, 2015, the other offences came to be added.

4. Learned Counsel for the Applicant submitted that at the relevant time the prosecutrix is stated to be 14 years of age. He submitted that from a perusal of her statement, it is evident that the applicant and the prosecutrix were in love with each other and that the prosecutrix had willingly and voluntarily gone with the applicant. He submitted that although the prosecutrix in her statement dated 22nd March, 2015, has alleged that the applicant had committed forcible intercourse with her, the history given to the Doctor shows otherwise. He relied on the statement of the aunt of the applicant – Nanda Kisan Jadhav, which shows that the prosecutrix wanted to get married to the applicant and had disclosed that she would commit suicide, if she was not permitted to stay with the applicant. According to the aunt of the applicant – Nanda, she tried to convince the prosecutrix that as she was under age she could not stay with the applicant and after

convincing her she had brought the prosecutrix back to her parent's house.

5. Learned APP submits that the prosecutrix at the relevant time was 14 years of age and therefore the consent of the prosecutrix is immaterial

6. Perused the charge-sheet, in particular the statements of the prosecutrix, the aunt of the applicant – Nanda and the medical history given by the prosecutrix to the Doctor. It appears that the prosecutrix and the applicant were in love with each other ; that they wanted to get married and that the applicant had taken the prosecutrix to his aunt's house. It also appears that the applicant's aunt after convincing the prosecutrix had brought her back to her parent's house. A perusal of the medical history given by the prosecutrix to the Doctor in her own words shows, that 'she had denied any history of any forcible intercourse'.

7. Considering the peculiar facts of the case, the Applicant is enlarged on bail on the following terms and conditions :-

ORDER

i) The Applicant is enlarged on bail on furnishing P.R.Bond in the

sum of Rs.10,000/- with one or two sureties in the like amount ;

- ii) The Applicant shall attend the Satara Taluka Police Station, Kolhapur, on the first Saturday of every month, between 10.00 a.m. to 11.00 a.m., for a period of 12 months from his release ;
 - iii) The Applicant shall not tamper or attempt to contact or influence the prosecutrix or any witness concerned with the case ;
 - iv) The Applicant shall co-operate in the conduct of the trial.
8. The Application is allowed and disposed of in above terms.
9. Needless to observe, that the learned Judge shall decide the case on its own merits uninfluenced by the observations made in this order.
10. Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.