

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAILAPPLICATION NO. 221 OF 2015

Nitin Bhijaji Yadav	...	Applicant
vs.		
The State of Maharashtra	...	Respondents

Mr. P.G.Sarda, Advocate for the applicant
Mrs. R.V.Newton, APP, for the respondent-State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 4th March, 2015.

P.C.

Heard. This is an application under Section 439 of Cr.P.c. The applicant herein is arrested on 2.9.2014 in Crime No. 88 of 2014 registered for the offence punishable under Section 376 and 506 of IPC and under Section 6 of Protection of Children from Sexual Offences Act. The investigation is completed and charge sheet is filed on 27.11.2014.

2. It is the case of the prosecution that the prosecutrix who happens to be 17 years and 10 months old on 1.9.2014, lodged a report at the police station that she was acquainted with the present applicant. She was in contact with him for quite some time. They used to call each other on their respective cellphones. They were in love with each other. She has given several instances when she had

accompanied the present applicant and there was sexual intercourse between the applicant and the complainant. On 23.8.2014, the friend of the prosecutrix asked her to attend her birthday celebrations and had requested her to come to Ram Mandir, Warna Nagar. On that day, the present applicant had allegedly informed the prosecutrix that she shall forget the past and take it as a dream as he intends to marry her friend Sheetal. There was an altercation between the applicant and the complainant. It is alleged that he had threatened her of dire consequences and that he would upload her photos. Thereafter, she had descended into depression. Upon enquiry, she informed her maternal uncle about the same on 30.8.2014 and accordingly they had lodged a report against the present applicant.

3. The learned counsel for the applicant submits that in fact the prosecutrix was in love with the present applicant and that they had consensual sex. On the date of lodging of FIR, the complainant was 17 years and 10 months old. The learned counsel for the applicant submits that the complainant had not complained about the said acts till she learnt that the applicant was to get married to her friend.

4. Taking into consideration the fact that the applicant has been in jail since 2.9.2014 and that investigation is completed and charge sheet is filed,

further incarceration of the applicant would be unwarranted in the given facts and circumstances of the case. Hence, the applicant deserves grant of bail.

ORDER

(i) The application is allowed. The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount.

(ii) The applicant shall not contact with the prosecutrix in any manner.
Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)