

Anand

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

BAIL APPLICATION NO.355 OF 2015

Nikhil Bhagwan Lamane .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.R.H.Patil, Advocate, for the Applicant
Ms Veera Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 02.09.2015

P.C.

. Heard 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.214 of 2014 registered with the Tasgaon Police Station, Sangli, for the alleged offences punishable under Sections 363, 366, 376(2)(I) of the Indian Penal Code, 1870 and under Sections 4, 5(L) r/w.6 of the Protection of

Children from Sexual Offences Act, 2012.

3. The complainant is the grand mother of the prosecutrix. The applicant at the relevant time was 22 years of age and the prosecutrix 14. According to the complainant, after the demise of the prosecutrix's parents, the prosecutrix was residing with her. She has stated that on 26.08.2014 the prosecutrix left home and did not return, and hence, she lodged a complaint/FIR as against the present applicant on 01.09.2014.

4. Learned counsel for the applicant submits that the applicant on learning of the FIR/complaint registered as against him, took the prosecutrix to the police station, where her statement came to be recorded by the police on 01.09.2014. In the said statement dated 01.09.2014, she has stated that she had gone with the applicant on 25.08.2014; that they had

stayed in a lodge; had physical relations; and that the applicant on learning that her grandmother had lodged a complaint, brought her to the police station. The prosecutrix, thereafter, in her statement dated 03.09.2014 has stated that she had voluntarily gone with the applicant. The prosecutrix in her 3rd statement dated 04.09.2014 has stated that she had gone with the applicant on her own accord and that she had wrongly disclosed to the police and the Magistrate that she had stayed in a lodge with the applicant and that they had got married.

5. Learned APP states that the prosecutrix is a minor and that consent is immaterial.

6. Perused the papers in particularly, the statements of the prosecutrix dated 01.09.2014, 03.09.2014 & 04.09.2014.

7. Considering the statements of the prosecutrix made by her, it appears that initially she had stated that she had gone with the applicant and that they had physical relations. However, subsequently, she has resiled from the said statements. Considering the facts of this case and also the fact that investigation is complete and charge sheet is filed, the applicant deserves to be enlarged on bail on the following terms and conditions:

ORDER

(i) The applicant be released on bail C.R.No.214 of 2014 registered with the Tasgaon Police Station, Sangli, on executing P.R.Bond in the sum of Rs.10,000/- with one or two solvent sureties in the like amount;

(ii) The applicant shall not tamper or attempt to contact the prosecutrix or any witness concerned with the said case;

(iii) The applicant shall attend the Tasgaon Police Station, Sangli on the first Saturday of every month between 11.00 a.m. to 12.00 noon till the conclusion of the trial.

8. It is made clear, that the observations are prima facie for the purpose of deciding the application and the learned Judge shall conduct the case on its own merits, uninfluenced by the observations made herein.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)