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

BAIL APPLICATION NO.373 OF 2015

Gajanan @Haribhajan Baburao Jadhav	... Applicant
Vs	
The State of Maharashtra	... Respondent

Mr.Umesh R.Mankapure, for the Applicant.

Ms.Veera Shinde, 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.265 of 2014 registered with the Lonikand Police Station, Pune, for the alleged offence punishable under Sections 376 of the Indian Penal Code and under Sections 4 and 5 of Protection of Children from Sexual Offences Act, 2012.

3. The applicant at the relevant time was 22 years of age and the prosecutrix was 17 years. According to the prosecutrix, from the age of 11 years, she and her grandmother were residing in her uncles' house. She has stated that the present applicant was her uncle's neighbour and that she had visited his house for the first time during the Ganpati Festival. It appears from the complaint, that thereafter the applicant and the prosecutrix started meeting each other and that the applicant had promised to marry the prosecutrix. According to the prosecutrix, sometime in October, 2013 the applicant committed forcible sexual intercourse with the prosecutrix without her consent, on the pretext that he would marry her. Thereafter, the applicant and the prosecutrix continued meeting each other and it is alleged that whenever the applicant and prosecutrix met each other, the applicant on the pretext that he would marry her committed forcible sexual intercourse with her, without her consent. It is alleged that thereafter, on 4th April, 2014, the prosecutrix was admitted to the Chaitanya Mahila Mandal, Pune and a child was born to the prosecutrix on 18th June, 2014. The present complaint has been lodged on 11th August, 2014. According to the prosecutrix, the applicant on the assurance and promise that he will marry her had relations with her.

4. Learned Counsel for the Applicant states that the applicant has been falsely implicated in the said case. He submitted that there is a substantial delay in lodging the FIR, inasmuch as, the alleged incident of rape is stated to have taken place in October 2013 ; the child was born on 18th June, 2014 and the FIR was lodged only on 11th August, 2014.

5. Learned APP submits that considering that the prosecutrix was a minor, aged 17 years of age, the consent was immaterial.

6. Be that as it may, it appears that the applicant and the prosecutrix were meeting each other and that there were physical relations between them, allegedly without the consent of the prosecutrix. The present complaint has been lodged as the applicant despite promise had refused to marry the prosecutrix. The alleged incident of rape was sometime in October 2013, a child was born to the prosecutrix in June, 2014 and the aforesaid complaint was lodged in August, 2014.

7. No doubt, the consent of the prosecutrix is immaterial, as she was a minor, however, considering the peculiar facts of the case and the fact that

investigation is complete and charge-sheet is filed, 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 Lonikand Police Station, Pune, 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.