

Anand

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

BAIL APPLICATION NO.1556 OF 2015

Shivshankar alias Namdeo Balaso .Applicant
Nalawade

v/s.

The State of Maharashtra .Respondent

Mr.R.A.Zade, Advocate, for the Applicant
Mrs.P.P.Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 10.09.2015

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.22 of 2015 registered with the Walchand
Nagar Police Station, Pune(Rural), for the
alleged offences punishable under Sections 363,
366A& 376 of the Indian Penal Code, 1870 and
under Sections 6 & 12 of the Protection of

Children from Sexual Offences Act, 2012.

3. The applicant is aged 19 years and the prosecutrix is aged 14 years. A complaint has been lodged by the grand-father of the prosecutrix on 23.02.2015. He has alleged that the present applicant had kidnapped his grand-father. Accordingly, the complaint was lodged on 23.02.2015.

4. Learned counsel for the applicant submits that the applicant and the prosecutrix were neighbours and that they both were in love with each other. He submits that a perusal of the statement of the prosecutrix shows that both the applicant and the prosecutrix wanted to marry each other and hence, the prosecutrix had left home to marry the applicant. He submits that the prosecutrix had gone on her own accord along with the applicant. He submits that the

applicant has been in custody since his arrest in February, 2015 i.e. for more than five months. He further submits that the applicant is a student studying in Nilkantheshwar Vidyalaya at Lasurne, Taluka – Indapur, District – Pune. He has tendered the Bona fide Certificate of the applicant to show that the applicant is studying in 11th Std in the said case. The said Certificate is taken on record and marked as "X" for identification.

5. Learned APP submits that considering the age of the prosecutrix, consent is immaterial. Be that as it may, perused the charge sheet, and in particular, the statement of the prosecutrix. She has stated in her statement that she was in love with the applicant and vice versa, and that both of them would meet frequently. She has further stated that both of them had decided to get married and

had decided not to disclose the same to any member of the family. She has stated that they also had physical relations. On 21.02.2015, on the pretext of going for a marriage ceremony, she ran away with the applicant. She has stated that after she ran away with the applicant until such time that she was away, the applicant did not have any physical relations with her. No doubt applicant being a minor, consent is immaterial. However, considering the fact that the applicant is a student studying in 11th Std aged 19 years and the fact that investigation is complete and charge sheet is filed and considering the peculiar facts of this case, the applicant is enlarged on bail on the following terms and conditions :

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 10,000/- with one or two sureties in the like amount;

(ii) The applicant shall attend the Walchand Nagar Police Station, Pune(Rural) Police Station on the first and third Saturday of every month between 11:00 a.m. to 12:00 noon for a period of 3 months from the date of the order;

(iii) The applicant shall not tamper or attempt to influence or contact the prosecutrix, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the

applicant's bail.

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

7. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

8. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)

CERTIFICATE

Certified to be true and correct copy
of the original signed Judgment/order.