

Anand

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

BAIL APPLICATION NO.1750 OF 2015

Mahendra Balu Jasud .Applicant

v/s.

The State of Maharashtra & anr. .Respondents

Mrs.Pranali P. Kakade i/b. Mr.S.D.Pandey,
Advocate, for the Applicant
Mr.S.S.Pednekar, APP, for the Respondent No.1 –
State

CORAM : REVATI MOHITE DERE, J.

DATE : 09.10.2015

P.C.

. Heard learned counsel for the applicant
and the learned APP for the respondent No.1 –
State.

2. By this application, the applicant
seeks his enlargement on bail in connection with
C.R.No.455 of 2014 registered with the Shirur
Police Station, Pune, for the alleged offences
punishable under Sections 212, 363, 376, 420

r/w.34 of the Indian Penal Code and under Sections 4, 8 & 12 of the Protection of Children from Sexual Offences Act (POCSO).

3. At the relevant time, the prosecutrix was aged 14 years and the applicant was aged 22 years. The complainant is the father of the prosecutrix. He has lodged the aforesaid complaint for the alleged offence punishable under Section 363 r/w.34 of the Indian Penal Code as against the present applicant - Mahendra Jasud and another. According to the complainant, on 24.11.2014, his daughter went missing and that the present applicant along with the co-accused forcibly made her sit in the vehicle and took her away.

4. Learned counsel for the applicant states that a perusal of the statement of the prosecutrix shows that she was in love with the

applicant and that they would meet frequently. She has stated that the said relations were not approved by the family members and hence, she stopped meeting the applicant. However, thereafter, she again started meeting the applicant. She has stated that on 24.11.2014, when she was going along with her friend for class, the applicant stopped her and made her sit in a car and disclosed her that they would go for a drive. She has stated that the present applicant and the co-accused Ramakant were present in the car. However, later on, Ramakant was asked to alight from the car and thereafter, the present applicant and the prosecutrix left Mumbai for Gujarat. She has stated that they stayed in the car and thereafter, from Gujrat they went to Rajasthan. She has stated that the applicant disclosed to her that they would stay in Udaipur for a few days and thereafter, return back. She has stated that as they were not

married, no Hotel or Lodge were permitting them to stay there and hence, they slept in the car. She has alleged that at Udaipur, they got a room where the applicant had physical relations with her. Thereafter, both the applicant and the prosecutrix were apprehended in Rajasthan.

5. Learned counsel for the applicant states that the prosecutrix has gone on her own accord with the applicant and the relations were consensual.

6. Learned APP opposed the bail application stating that the consent is immaterial, considering that the prosecutrix was a minor.

7. Perused the papers including the statement of the prosecutrix which is on page No.19 of the application.

8. Considering the age of the prosecutrix, consent is immaterial. However, considering the peculiar facts and circumstances 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 & conditions:

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the Shirur Police Station, Pune on the first Sunday of every month between 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;
- (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.

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

10. 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.

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

(REVATI MOHITE DERE, J.)