

Anand

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

BAIL APPLICATION NO.768 OF 2016

Karan Magar Sarvade .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.S.D.Katke, Advocate, for the Applicant

Mr.H.J.Dediya, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 04.07.2016

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.278 of 2015 registered with the Shahunagar Police Station, Mumbai, for the alleged offences punishable under Sections 363 & 376 of the Indian Penal Code and under Sections 4, 8 & 12 of the Protection of Children from Sexual Offences Act (POCSO).

3. The victim girl/prosecutrix was about 17 years & 6 months at the time of the incident. She was married and had left her husband and came back to Mumbai. According to the prosecutrix, she was working in A.K.Travels, when she met the Applicant, who was working in a nearby store, pursuant to which they became friends. According to the prosecutrix, on 10.02.2015, the Applicant came to her and disclosed that her husband had come to her house to assault her and was armed with a chopper. She has stated that the Applicant told her that there was danger to her life and if she considered him to be her friend, she should go with him to Karnataka, for her safety. Pursuant to which she left with the Applicant. She has stated that the Applicant took her to stay with his family consisting of his parents and grand parents. She has stated that she stayed there for about four months. According to the prosecutrix, after a few months, the Applicant

sold her jewelery and refused to let her return to Mumbai and started threatening her and even had physical relations with her. She has alleged that on 09.06.2015, she borrowed Rs.500/- from the sarpanch of the village and returned to Mumbai. She has stated that she did not lodge a complaint as the family honour was at stake. She has alleged that on 20.08.2015, the Applicant returned back and started threatening her, pursuant to which she lodged the aforesaid complaint.

4. Learned counsel for the Applicant submitted that the prosecutrix aged 17 years and 6 months, at the relevant time, had gone with the Applicant, aged 20 years, on her own accord. He submitted that the prosecutrix had stayed with the Applicant in his house with his family for about 4-5 months and was like a member of the Applicant's family. He relied on the statement of the Applicant's father, Magar

Sarvade in support of the same.

5. Learned APP submits that the Applicant had enticed the prosecutrix and taken her to Karnataka by falsely disclosing to her, that her husband had come and was going to assault her and thereafter, the Applicant had physical relations with the prosecutrix.

6. Perused the papers. Investigation is complete and charge-sheet is filed. It appears that the victim girl had gone with the Applicant and had stayed with the Applicant's family for about 4-5 months. The Applicant was aged 20 years at the relevant time and the prosecutrix was aged 17 years & 6 months. The statement of the sarpanch shows that he knew the prosecutrix as the daughter-in-law of the Applicant's father, and had given Rs.500/- to the Applicant's father, who in turn gave Rs.500/- to the victim girl for her personal expenses.

7. Considering the material on record, 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 report to the investigating officer of the Shahunagar Police Station, Mumbai on the **1st Saturday of every month** between **10.00 a.m. and 11.00 a.m.** till the conclusion of the trial;

(iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, 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) The Applicant shall not enter the jurisdiction of the Antop Hill Police Station, Mumbai, where the prosecutrix is residing;

(vii) The Applicant shall file an undertaking with regard to Clause Nos.(ii) to (vi) within two weeks of his release in the trial Court;

(viii) 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.

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

9. 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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)