IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.877 OF 2016

Sanjeet Rambacchan Jaiswal ... Applicant
vs.
The State of Maharashtra ... Respondent

Ms. Anjali Awasthi, for the Applicant.
Mrs. P.P. Shinde, APP for Respondent – State.
Mr. S.D. Gaikwad (PSI), V.B. Nagar police station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **29th APRIL, 2016**

P.C.:

. The application is moved for bail as the applicant/accused is facing charges for the offences punishable under Sections 376(J), 363 and 366(A) of the Indian Penal Code and under Sections 4, 8 and 12 of POCSO Act in C.R. No.70 of 2016 registered with V. B. Nagar police station, Mumbai. The offence is registered at the instance of the mother of prosecutrix on 18th March, 2016.

2. It is the case of the prosecution that the complainant Smt. Bilkis Quereshi filed a missing complaint of her daughter on 14th

March, 2016 and subsequently on 18th March, 2016 the prosecutrix returned home. On inquiry, the mother of the prosecutrix found that she was kidnapped by the applicant/accused on 14th March, 2016 and she stayed with him for three days in one Naseer Hotel, Kalyan as he promised her of marriage. It is her case that during that period the applicant/accused forced her to have sexual intercourse with him and then on 18th March, 2016 he told her to go and they both returned. Therefore, the mother of the prosecutrix lodged complaint.

3. The learned counsel for the applicant/accused submits that the applicant/accused is innocent. The prosecutrix is more than 17 years of age when she went with the applicant/accused. The applicant/accused is 22 years old boy and he is arrested on 20th March, 2016 and since then he is in prison. Hence, he may be released on bail.

4. The learned prosecutor oppose the bail application. She submitted that the prosecutrix is minor. She submitted that one more case for the offence under Section 306 of Indian Penal Code is registered at V.B. Nagar police station against the applicant/accused.

5. Perused the first information report and birth certificate of the prosecutrix. It shows the date of birth of the prosecutrix is 28th October, 1998. As such the age of the prosecutrix was 17 years and 4 months when she eloped alongwith the applicant/accused. Perused the statement of the prosecutrix recorded on 19th March, 2016. From the said statement, it appears that she herself went along with the applicant/accused. Though the prosecutrix is not of 18 years old and as per the birth certificate she was 17 years and 3-4 months old, she was major and of the age of understanding the consequences of going with the applicant/accused. The applicant/accused is behind the bars since 20th March, 2016. Considering this, I am inclined to grant bail to the applicant/accused. Hence, I pass the following order:

a) The bail application is allowed.

b) The applicant/accused be enlarged on bail upon furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.

c) He shall attend the investigating officer at V. B. Nagar police station, Mumbai on every Monday between 5.00 p.m. to 6.00 p.m. till filing of the charge-sheet.

d) He shall not tamper with the evidence and shall not

pressurize the prosecutrix and her relatives in any manner.

e) He shall not indulge into any criminal activity, while on bail.

f) He shall not abscond and furnish his address to the police station along with address proof.

g) He shall not leave India without the prior permission of the Court.

6. Bail application stands disposed of on above terms.

(MRIDULA BHATKAR, J.)