

Anand

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

BAIL APPLICATION No.76 OF 2017

Sandip Dhondiram Chroskar

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr.Sachin B. Chandan, Advocate, for the Applicant

Mr.Rajan B. Salvi, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 06.04.2017

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.I-190 of 2016 registered with the Dindori Police Station, Nashik(Rural), for the alleged offence punishable under Section 376(1) of the Indian Penal Code and under Sections 4, 5(L), 6 & 8 of the Protection of Children from Sexual Offences Act (For short “POCSO”).

3. Learned counsel for the Applicant submits that the Applicant has been falsely implicated in the said case. He

submitted that the prosecutrix had not had any physical relations with the Applicant and in fact, it is co-accused Roshan alias Kantilal Hari Shekhar, who was in a relationship with the prosecutrix and who is responsible for the prosecutrix's pregnancy.

4. Perused the papers, in particular, the statement of the prosecutrix. It appears that the prosecutrix was about 15 years and six months at the relevant time. She has stated that she met the Applicant in her aunt's house and that when her aunt was away for agricultural work, the Applicant had physical relations with her. She has stated that whenever the Applicant came to his aunt's house, he would call her and that she would meet him and the Applicant would have physical relations with her, against her wish, by promising her marriage. She has also stated that one Roshan alias Kantilal Hari Shekhar (juvenile co-accused) was a friend of hers. According to the prosecutrix, Roshan was residing in the same village, and she became friendly with him. She has stated that the said person i. e. Roshan alias Kantilal Hari Shekhar had also promised to marry her, pursuant to which she was having physical relations with him for the last two years. She has stated that she had physical relations with

co-accused Roshan alias Kantilal Hari Shekhar (juvenile), as he had promised to marry her. It appears that subsequently, on 19.08.2016 when the prosecutrix, who was studying in an Ashram School was physically examined by a Doctor, the examination revealed that she was five months pregnant. Pursuant thereto, the aforesaid complaint was lodged by the prosecutrix's father as against the Applicant and juvenile co-accused Roshan alias Kantilal Hari Shekhar. It is informed that Roshan alias Kantilal Hari Shekhar, juvenile accused is in remand home. The prosecutrix was around 16 years of age at the relevant time and the Applicant 21 years of age. The DNA report has not been placed on record to show the paternity of the child.

5. Considering the peculiar facts of this case and the fact that investigation is complete and charge-sheet is filed, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions:-

O R D E R

(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 concerned Police Station on the **first Monday 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 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) 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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)