

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.321 OF 2017

|                           |            |
|---------------------------|------------|
| Karimulla Rahimtulla Khan | Applicant  |
| versus                    |            |
| State of Maharashtra      | Respondent |

Mr.Avinash B. Avhad with Ms.Rucheeta R. Dhuru for Applicant.  
Smt.Veera Shinde, APP, for State.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 4<sup>th</sup> July 2017

PC :

1. This is an application for bail. The offence is registered with Shahunagar Police Station vide CR No.165 of 2016 under Section 376 of Indian Penal Code as well as Sections 4, 8 and 12 of Protection of Children from Sexual Offences Act ('POCSO Act').
2. The Applicant was arrested on 19th May 2016. The investigation is complete and charge sheet is filed.
3. The prosecution case is that the victim was aged about 16 years at the time of incident. She was having a love affair with the Applicant. There is physical relationship between the Applicant and the victim. On account of said relationship, the victim was pregnant and thereafter she delivered a child. The Applicant preferred an application for bail before the Sessions Court which was rejected by order dated 6th December 2016. Learned advocate for the Applicant

submitted that there was an affair between the Applicant and the victim. The relationship was consensual. He further submitted that since there was a love affair between the Applicant and the victim, the Applicant is willing to marry her. The Applicant has tendered an affidavit dated 10th April 2017. In the said affidavit it is mentioned that the Applicant is in judicial custody in connection with the said crime. It is further stated that he is ready and willing to marry Miss.Saima Abdul Rahim Shigwal (victim), who is the daughter of the informant Mr.Abdul Rahim Abdul Rehman Shigwal. It is further stated that the victim and the Applicant are in love with each other and they always intended to marry. It is stated that the Applicant will marry the victim after his release in accordance with law.

4. The victim girl is present in the Court along with her brother. They were identified by the police officer who is present in the Court. The contents of the affidavit were explained to the victim and the brother of victim by learned APP and the police officer, who is present in the Court. Admittedly, as stated in the complaint, there was an affair between the Applicant and the victim. It is also required to be noted that the victim has delivered a child. The affidavit is already taken on record by order dated 13th April 2017.

5. In view of the aforesaid circumstances, the Applicant can be released on bail. It is made clear that the contents of the affidavit which is taken on record, are accepted as undertakings given to this Court and failure to adhere the same would call for appropriate penal actions including cancellation of bail.

6. Hence, I pass following order :

**ORDER**

- (i) Bail Application No.321 of 2017 is allowed;
- (ii) The Applicant is directed to be released on bail in connection with CR No.165 of 2016 registered with Shahunagar Police Station on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The Applicant is directed to comply with the undertakings given to this Court in the affidavit and in case of breach of the undertakings given to this Court, the bail granted to the Applicant will be cancelled;
- (iv) The Applicant shall not leave Mumbai without prior permission of this Court;
- (v) The Applicant is directed to report the investigating officer of Shahunagar Police Station once in a month on first Saturday of the month between 11.00 a.m. and 1.00 p.m.;
- (vi) The Applicant is permitted to deposit cash security for a period of three weeks in lieu of surety;
- (vii) The application is disposed of.

(PRAKASH D. NAIK, J.)

MST