

Anand

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

BAIL APPLICATION No.575 OF 2017

Kisan Jayprakash Nagar

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr.Piyush Toshnival a/w. Mr.Aniket U. Nikam i/b. Mr.Ashish
Satpute, Advocate, for the Applicant

Mrs.Rutuja Ambekar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 11.04.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-317 of 2016 registered with the Ambad Police Station, Nashik, for the alleged offences punishable under Sections 376D, 354B, 506, 507, 328 r/w.34 of the Indian Penal Code.

3. Learned counsel for the Applicant submitted that the Applicant has been falsely implicated in the said case. He relied on the Medical Certificate of the prosecutrix which is on page No.32 of the Application.

4. Learned APP opposes the Bail Application.

5. Perused the papers.

6. The complainant is the prosecutrix. She has stated that at the relevant time, she was about 13 years of age and the Applicant 21. According to the prosecutrix, she became friendly with all the six accused i. e. five juvenile and the Applicant on the Hike group, which was started by her friend. She has stated that sometime in September, 2016 when she was returning home from her friend's house, co-accused Ujwal Magar forcibly took her to a room where all the accused including the Applicant were consuming alcohol. She has stated that co-accused Ujwal Magar took her to a room and gave her a drink as a result of which she became semi unconscious. She has stated that thereafter, co-accused Ujwal Magar sexually assaulted her and thereafter, all the accused including the Applicant sexually assaulted her one by one. She has stated that in the morning, when she became conscious, co-accused Riyazul Ansari was present there. She has stated that all the accused asked her not to disclose the said incident to any person and threatened her with dire consequences. She has stated that thereafter, out of fear, she did

not disclose the incident to any person. She has stated that thereafter, on 02.12.2016, co-accused Riyazul Ansari sent her a message on her mobile "I Love U", which message was read by her mother. She has stated that her mother questioned her about the said message, pursuant to which, she made the aforesaid disclosure and thereafter, lodged a complaint. The complaint has been lodged by the prosecutrix on 04.12.2016 alleging the aforesaid offences. A perusal of the medical examination report of sexual assault dated 05.12.2016 shows that the prosecutrix had given history of an alleged sexual intercourse by her friends in the month of September. No external injuries were found on her body. In column 12C, it is stated that her hymen was intact. The Radiological report shows the age of the prosecutrix between 14 to 16.

7. Considering the allegations and the medical report of the prosecutrix, 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 not enter the jurisdiction of the Ambad Police Station, Nashik till the conclusion of the trial except for the purpose of attending the police station;

(iii) The applicant shall attend the concerned Police Station on the **first Saturday of every month** between **10:00 a.m. to 12:00 noon** till the conclusion of the trial;

(iv) The applicant shall not tamper with the or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) 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;

(vi) The applicant to cooperate with the conduct of the trial;

(vii) 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.)