

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 768 OF 2017**

Kartik Kashinath Karagir

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Satyavrat Joshi for the Applicant

Mr. Deepak Thakare, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 4th APRIL, 2017

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 103 of 2016 registered with the Uttam Nagar Police Station, Pune, for the alleged offences punishable under Sections 363, 376 of the Indian Penal Code and Sections 3(A), 4, 5(L) and 6 of the Protection of Children from Sexual Offences Act.

3. Learned Counsel for the applicant submitted that it is a case of a love affair between the complainant and the applicant. Learned Counsel

relied on the history given by the prosecutrix to the doctor, who conducted her medical examination, in support of his submission.

4. Learned A.P.P opposed the application. He submitted that consent is immaterial, considering the fact that the prosecutrix was a minor.

5. Perused the papers. The prosecutrix, at the relevant time was 13 years of age and the applicant was around 22 years. A perusal of the history given by the prosecutrix to the doctor shows, that she was in love with the applicant and that they had planned to get married. The prosecutrix has disclosed to the doctor, that on 13th November, 2016, she had gone to a lodge, at Panshet along with the applicant, where they had consensual intercourse for the first time. She has stated that on 20th November, 2016, they had again gone to another lodge and returned back on the next day. She has stated that then her parents confronted her and took her to the police station. No history of unnatural sexual assault or physical assault was given to the doctor. Although it appears to be a case of a love affair and a consensual relation, consent is immaterial, considering the fact that the prosecutrix was a minor at the relevant time.

6. Be that as it may, considering the peculiar facts of this case, the fact that the applicant has been in custody since 21st November, 2016, and the fact that investigation is complete and charge-sheet is filed, the applicant is enlarged on bail on the following terms and 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 Shivaji Nagar Police Station, Pune, on the first Monday of every month from 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- (iii) The applicant shall not enter the jurisdiction of the Uttam Nagar Police Station, Pune, where the prosecutrix is residing;
- (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the prosecutrix, witnesses or any person concerned with the case;

(v) The applicant shall inform his latest place of residence and mobile contact number 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.

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

8. 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.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.