

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.898 OF 2017

Akshay Chandrakant Mahadalkar	..	Applicant
Versus		
State of Maharashtra and Anr.	..	Respondents

Mr.Rishi Bhuta for applicant
Mr. R.M.Pethe, APP for State
Mr. Ashish Dubey for intervenor.

CORAM : P.D.NAIK, J.

DATE : 28th July 2017.

P.C.

1] This is an application for bail. The applicant is arrested in connection with C.R. No.446 of 2016 registered with Dahisar police station, Mumbai for offences under section 376(2), 376(I)(N), 354, 509, 506 of Indian Penal Code as also under sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 read with Section 66(E) of the Information & Technology Act, 2000. The applicant was arrested on 28th November 2016. The investigation is complete and charge sheet is filed.

2] The case of the prosecution is that the victim and the applicant were acquainted with each other and they had developed love for each other. The applicant had sexual relationship with the victim girl. The said fact is reflected in the statement of the complainant who is mother of the victim as well as the statement of victim which is recorded by the police under sections 161 and 162 of Cr.P.C.

3] The victim at the time of incident was aged about 13 years. Presently she is about 16 years and two months. It is submitted by the learned Advocate for the applicant on instructions that the applicant is willing to marry the victim girl once she attains the age of majority. The victim girl as well as her parents have also consented for solemnising the marriage once the victim attains majority. An affidavit is tendered by the parents of the victim girl which is already taken on record and marked "X" for identification. In the said affidavit it has been stated that the parties have resolved the dispute and the victim girl has expressed her desire to get married after she attains the age of majority to the applicant and the marriage will be solemnised once the applicant is released on bail.

4] Learned Counsel for the applicant also tenders affidavit which is affirmed by the applicant in the jail where he has been detained. In the said affidavit it has been stated that the applicant had agreed to marry with the victim and the marriage will be solemnised once the victim attains age of majority. The said affidavit was affirmed on 27th July 2017. The parents of the applicant have also tendered affidavit before this Court which reiterates the contents of the affidavit filed by the applicant. Both these affidavits are taken on record and marked "X-1" and "X-2" for identification.

5] Considering the aforesaid circumstances, bail can be granted to the applicant. The applicant is in custody since 28th November 2016. The affidavit tendered by the applicant is accepted as undertaking to this Court. In the light of the aforesaid circumstances, I am inclined to grant bail to the applicant.

ORDER

- (I) Bail Application No.898 of 2017 is allowed;
- (II) The applicant is directed to be released on bail in connection with C.R.No.446 of 2016 registered with Dahisar Police Station on furnishing P.R.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 submitted by way of affidavit. In case it is found that there is any breach of the undertaking, the bail granted to the applicant will be liable to be cancelled;

(IV) Applicant is permitted to furnish cash security in the sum of Rs.25,000/- for a period of four weeks in lieu of surety;

(V) Application disposed of.

(P.D.NAIK, J.)