

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1223 OF 2017**

Farid Farooq Qureshi	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms. Sartaj Shaikh i/b Mr. Ayaz Khan for the Applicant

Ms. Veera Shinde, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
MONDAY, 7th AUGUST, 2017

P.C. :

1. Heard learned Counsel for the parties.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 298 of 2016 registered with the Nagpada Police Station, for the alleged offences punishable under Section 376 of the Indian Penal Code and under Sections 4 and 8 of the Protection of Children from Sexual Offences Act.

3. Learned Counsel for the applicant submits that the applicant and the complainant/prosecutrix were known to each other since 2013 and

that their friendship developed into a love affair. She submits that the relations between the parties were consensual. She submits that although the incident is of 17th February, 2016, the complainant/prosecutrix learnt that she was 5½ months pregnant, in July, 2016, pursuant to which, an FIR was lodged as against the applicant, on 3rd September, 2016. She submits that the applicant is in custody since 4th September, 2016.

4. Learned A.P.P opposes the application.

5. Perused the papers. The complainant/prosecutrix was about 17 years of age and the applicant about 20 years, at the relevant time. It appears, that the applicant and the complainant/prosecutrix lived in the same vicinity and were neighbours and as such were known to each other. The complainant/prosecutrix has, in her complaint, disclosed that both of them would go for tuitions together and that their friendship developed into a love affair and that they started chatting on phone and on Whats-app. She has alleged that in February, 2016, the applicant took her to Nariman Point and thereafter took her to a hotel, where he had physical relations with her without her consent, on the assurance that he was going to get married to

her. She has stated that she did not disclose the said incident to any person and thereafter started avoiding the applicant. She has stated that in July, 2016, when her sonography was done, she realised that she was 5½ months pregnant. She has further stated that when her parents learnt about her pregnancy, they questioned her, pursuant to which, she disclosed the applicant's name and stated that the applicant had forcible physical relations with her. She has further stated that when her parents approached the applicant's parents, disclosing the said pregnancy, the applicant refused to marry her.

6. Considering the fact, that the complainant/prosecutrix was 17 years at the relevant time, the question of consent does not arise. The applicant is in custody since 4th September, 2016. Investigation is complete and charge-sheet is filed.

7. Considering the aforesaid, in the peculiar facts and circumstances of the case, the application is allowed and 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. 20,000/- 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 12:00 noon till the conclusion of the trial;
- (iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall not reside in the same vicinity till the conclusion of the trial and shall furnish 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;
- (v) The applicant to cooperate with the conduct of the trial.

8. The application 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.
10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.