

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1270 OF 2017**

Nitin Ashok Sable

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Himanshu S. Shinde for the Applicant

Ms. S. S. Kaushik, A.P.P for the Respondent-State

PN Mr. S. A. Mapare from Chakan Police Station is present

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 20th JULY, 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. 421 of 2016 registered with the Chakan Police Station, for the alleged offences punishable under Sections 363, 376(2)J of the Indian Penal Code and under Sections 6, 8, 10, 12 of the Protection of Children from Sexual Offences Act.
3. Learned Counsel for the applicant submits that the prosecutrix aged 16 years and the applicant were in love for about three years, prior to

the incident. He submitted that the prosecutrix had, on her own accord, gone with the applicant, stayed with the applicant, at Nallasopara in a tenanted premises and had got married to the applicant in a Ganpati Temple, at Nallasopara. Learned Counsel submits that although they were sleeping together, the applicant had physical relations with her, against her consent.

4. Learned A.P.P opposed the application.

5. Perused the papers. A perusal of the statement of the prosecutrix shows that the prosecutrix was about 16 years of age at the relevant time, and the applicant about 23 years. She has stated that the applicant and she were in love with each other, for about three years prior to the incident. She has stated that on 17th May, 2016, she called the applicant and asked him to come to her house at about 12:00 midnight. She has stated that she asked the applicant to take her somewhere or else her parents would get her forcibly married to somebody else. She further disclosed to the applicant, that she wanted to only get married to him, however, the applicant told her that she was young and was under age and

hence, he could not get married to her. She has further stated that she disclosed to the applicant that if he did not take her, she would do something to herself. She has further stated that thereafter she and the applicant went walking and thereafter took a tempo and reached Vashi Railway Station and from Vashi Railway Station, they reached Nallasopara, where they stayed in a tenanted room. She has stated that both of them got married in a temple at Nallasopara and that they started sleeping together. She has stated that the applicant had physical relationship with her, against her consent. She has stated that on 9th December, 2013, the police came and brought her to Chakan Police Station and handed her over to her parents. No doubt, the girl is a minor, however, considering her statement and the fact, that investigation is complete and charge-sheet is filed, 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. 10,000/- with one or two sureties in the like amount;
- (ii) The applicant shall not tamper with the evidence or attempt to

influence or contact the complainant, witnesses or any person concerned with the case;

(iii) 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;

(iv) The applicant to cooperate with the conduct of the trial.

6. The application is allowed in the aforesaid terms and is accordingly disposed of.

7. 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.

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

REVATI MOHITE DERE, J.