

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

CRIMINAL BAIL APPLICATION NO. 1395 OF 2017

Indresh Yadav

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Rahul Arote for the applicant.

Mr. R. M Pethe, APP for the respondent – State.

API R. R. Pathan, CBD Belapur Police Station present.

CORAM : PRAKASH D. NAIK, J.

DATE : 27 JULY, 2017

P.C. :

1. This is an application for bail in connection with C.R. No.I-38 of 2017. The FIR was registered with CBD Belapur Police Station, Navi Mumbai on 27 February, 2017. The offences were registered under sections 376 of IPC as well as section 4 of POCSO Act. The applicant was arrested on 27th February, 2017.

2. It is the case of the prosecution that the victim girl aged about 15 years was acquainted with the applicant / accused. The applicant was aged about 20 years at the time of incident. In the FIR, it is stated that the applicant / accused was residing in neighbouring area.

Both of them fell in love somewhere in July to August, 2016. They had physical relationship. The applicant / accused promised her that he would marry her and had sexual relationship with the victim. Subsequently, it was noticed that victim was pregnant and she delivered a child. The FIR was lodged as stated above. On completing investigation, the chargesheet has been filed.

3. Learned advocate for the applicant submitted that there was affair between victim and applicant. The applicant was aged about 20 years at the time of incident. The relationship was consensual. It is submitted that the applicant intends to marry victim girl. It is submitted that the victim is minor in age, considering the age of both the persons and also considering the fact that they were in love with each other, the applicant may be granted bail.

4. Learned APP opposed the application for bail. He submitted that the victim was minor aged about 15 years at the time of incident. The applicant promised her of marriage and had sexual relationship with victim. He further submitted on instructions from Investigating Officer who is present in Court that the family of the victim is not willing to solemnize marriage between victim and applicant. He submitted that the victim had delivered the child. The applicant,

therefore, is not entitled for bail.

5. Perused the documents on record. From the tenor of FIR, it is apparent that the applicant and victim were in love with each other. In that process, they had physical relationship and as a result of it, the victim was pregnant and she delivered a child. Although, the consent of the victim is immaterial as she being the minor, the admitted fact remains that the relationship was consensual. This factor can be considered for grant of bail. The investigation is completed and the chargesheet has been filed. Further detention of the applicant is not necessary.

6. The applicant was also aged about 20 years at the time of alleged incident. In these circumstances, bail can be granted to the applicant.

:: ORDER ::

(i) Bail Application No.1395 of 2017 is allowed.

(ii) The applicant is directed to be released on bail in connection with C.R. No.I-38 of 2017. The FIR was registered with CBD Belapur Police Station, Navi Mumbai

on furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only.) with one or more sureties in the like amount.

- (iii) The applicant shall attend the concerned police station once in a month on the first Saturday of month between 11.00 am to 1.00 pm till the conclusion of trial.
- (iv) The applicant shall furnish his permanent residential address to the investigating officer.
- (v) The applicant shall attend trial Court during the hearing of the case.
- (vi) The applicant shall not tamper with the evidence.

[PRAKASH D. NAIK, J.]