

Anand

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

BAIL APPLICATION NO.1429 OF 2017

Jitendra Genba More

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr.Satyavrat Joshi, Advocate, for the Applicant

Mr.S.S.Pednekar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 26.07.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.23 of 2016 registered with the Bhore Police Station, Pune(Rural), for the alleged offences punishable under Sections 363, 366, 376 of the Indian Penal Code and under Sections 4, 8 & 12 of the Protection of Children from Sexual offences Act.

3. Learned counsel for the Applicant submits that a perusal of the statement of the prosecutrix shows, that it was a case of love affair and that the relations, if any, were with consent. He submitted that the

prosecutrix had gone with the Applicant and had stayed with the Applicant's relatives and friends.

4. Learned APP opposes the Application.

5. Perused the papers, in particular, the statement of the prosecutrix, who is aged 16 years. According to the prosecutrix, there was a love affair between her and the Applicant for about 4-5 months prior to the incident. She has stated that on 05.03.2016, the Applicant aged 25 years followed her to School and asked her to accompany him to a temple. She has stated that after they went to the temple and prayed, the Applicant told her that he wanted to get married to her. She has further stated that she accompanied him on the motor cycle to several places i. e. the Applicant's sister's house and his friend's house. The prosecutrix in her statement dated 14.03.2016 has also stated that during the said period, there were no physical relations between her and the Applicant. The prosecutrix, however, in her supplementary statement dated 15.03.2016 has stated, that when they had gone to the Applicant's sister, the Applicant had physical relations with her without her consent. Although, the prosecutrix in her statement dated 14.03.2016, has stated that the Applicant had taken her to the Applicant's sister's and friend's

house, in the history given to the Doctor on 12.03.2016, she has disclosed that she knew the Applicant for more than three years; that they were in a relationship for about six months; that on 05.03.2016, she went to the School in the morning, that on the pretext of talking to her, the Applicant took her to Mumbai; where they stayed in a lodge for five days. In the history, given to the Doctor in her own language, the prosecutrix has also stated, that there was no physical or sexual assault on her. She has further stated that on 11.03.2016, the Applicant brought her to the police station himself, as her parents had lodged a missing complaint on 05.03.2016. Again although, the history is as aforesaid, the clinical examination of the prosecutrix shows that there was evidence to suggest penetrative sexual intercourse, with no evidence of injuries on any body parts. Whether or not, it is a case of consent, is immaterial, since the prosecutrix was a minor. Be that as it may, investigation is complete and charge-sheet is filed. The Applicant is in custody since 11.03.2016.

6. In the facts of this case, the Application is allowed and the Applicant is enlarged on bail on the following terms & 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 not enter the jurisdiction of Bhore Police Station, Pune(Rural) till the conclusion of the trial;

(iii) The Applicant shall report to the Shivajinagar Police Station on the **1st Monday of every month** between **10.00 a.m. to 11.00 a.m.** till the conclusion of the trial;

(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 immediately after being released 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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)