

Anand

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

BAIL APPLICATION NO.1479 OF 2017

Satish Sampat Tate .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. K. S. Labana, Advocate, for the Applicant
Mr. R. Salvi, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 25.09.2017

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.168 of 2016 registered with the Vishnunagar Police Station, for the alleged offence punishable under Section 376 of the Indian Penal Code and under Sections 4 & 8 of the Protection of Children from Sexual Offences Act (for short 'POCSO').

3. Learned counsel for the Applicant submits that the prosecutrix was about 17-18 years and the Applicant was about 20 years. He submitted that the Applicant met the prosecutrix, when she

was studying in school and that their friendship developed into a love affair. He submitted that it is a case of consent.

4. Learned APP opposes the Application. He submitted that considering the fact, that the prosecutrix was about 17 years of age, the question of consent does not arise. He submitted that pursuant to the relations between the complainant/prosecutrix and the Applicant, the prosecutrix delivered a child after seven months, however, the foetus was found dead.

5. Perused the papers. The complainant/prosecutrix has stated that she met the Applicant in School when she was in the 8th Std. She has stated that their friendship developed into a love affair and in December, 2015, on the pretext that the Applicant was going to marry her, they had physical relations. She has alleged that the Applicant had told her that he would look after her and her mother and continued to have physical relations with her, on the assurance that he would be marrying her. She has stated that after a few months, she learnt that she was pregnant and hence, she and her mother called the Applicant. She has alleged that when she called the Applicant, he started giving evasive answers. The question of consent will not arise, since the prosecutrix

was a minor. The Applicant is in custody since 2016. Investigation is complete and charge-sheet is filed.

6. In the peculiar facts of this case, further detention of the Applicant is not required. Accordingly, 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.25,000/-** with one or two local solvent sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned police station on the **first Saturday of every month** between **11:00 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/prosecutrix, witnesses or any person concerned with the case;

(iv) 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;

- (v) The Applicant to cooperate with the conduct of the trial;
- (vi) The Applicant shall file an undertaking with regard to Clauses (ii) to (v) in the trial Court within one week of his release;
- (vii) If there is a breach of any of the aforesaid conditions/undertaking, 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.)