

Anand

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

BAIL APPLICATION NO.1520 OF 2017

Mahesh Vasant Pol .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.A.S.Patil, Advocate, for the Applicant
Mr.Rajan Salvi, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 03.08.2017

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.123 of 2016 registered with the Aundh Police Station, Satara, for the alleged offences punishable under Sections 376 & 506 of the Indian Penal Code and under Sections 3 & 4 of the Protection of Children from Sexual Offences Act (for short 'POCSO' Act).

3. Learned counsel for the Applicant states that the Applicant has been falsely implicated in the said case. He submits that infact, the

Applicant and the prosecutrix were in love and had got married on 11.06.2015 at Malgaon, Taluka – Miraj. Learned counsel for the Applicant has tendered an Affidavit of the Applicant, placing on record the photographs of their marriage. He submits that in the said marriage, the Complainant, the Complainant's mother and other relatives were also present. He submits that after the marriage, the Applicant and the prosecutrix lived together for about 2-3 months, as husband and wife. He submits that as there was some quarrel between the two families, the Complainant had taken the prosecutrix home. He further submits that thereafter, on 17.02.2016, the prosecutrix got married to one Rahul Shejwal and started co-habiting with him. He further submits that on 08.06.2016, the prosecutrix on her own accord, left her matrimonial home, called up the Applicant and threatened to commit suicide, if he did not meet her. He submits that the prosecutrix has purchased a stamp paper of Rs.100/- in her name, and has written on the said stamp paper that she had left her matrimonial home on her own accord. He relied on page No.61 of the Application in support of his submission. He further submitted that thereafter, the prosecutrix has again got married to one Amol Balaso Nimbalkar on 13.12.2016.

4. Learned APP opposes the Application. He, however, does

not dispute the fact, that no investigation was done by the police, with regard, to what is stated in the Affidavit, tendered by the Applicant today.

5. Perused the papers, including the statement of the prosecutrix. The prosecutrix at the time of the incident was about 17 years of age. According to the prosecutrix, from January, 2015 to June, 2015, she was with the Applicant and that the Applicant had physical relations with her, stating that he was going to marry her. She has further stated that thereafter, her grand mother and relatives got her married to one Rahul Shejwal, pursuant to which, she started residing in her matrimonial home. According to the prosecutrix, the Applicant came to her matrimonial home and asked her why she had got married to some other boy, when she was supposed to get married to him. It is alleged that the Applicant threatened to commit suicide and leave a note, making her responsible for the same. She has stated that because of the threats, she accompanied the Applicant on 08.06.2016, and that because of the threats, she had physical relations with the Applicant. It appears from the statement of the prosecutrix, that the Applicant had taken her to his aunt's house, where they stayed for about two months. She has stated that thereafter, she returned to her parents house and disclosed the

same to her mother, pursuant to which the aforesaid complaint was lodged. In the entire charge-sheet, there is no mention of any alleged marriage between the Applicant and the prosecutrix or to the document at page No.61 of the Application. The photos annexed to the Affidavit reflect something else.

6. Hence in the peculiar facts of this case, continued detention of the Applicant is not required. Investigation is complete and charge-sheet is filed. 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.20,000/-** 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/prosecutrix, witnesses or any person concerned with the case;
- (iii) The Applicant to cooperate with the conduct of the trial.

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.)