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

CRIMINAL BAIL APPLICATION NO.414 OF 2018

Manoj Chandrakant Tambe

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.R.R.Paramane, for the Applicant.

Ms.A.A.Takalkar, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 8th MARCH, 2018

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.I-159 of 2017 registered with the Kapurbawdi Police Station, Thane, for the alleged offences punishable under Sections 363, 376(2)(i)(f)(n) of the Indian Penal Code and under Sections 4, 5 and 6 of Protection of Children from Sexual Offences Act.
3. Perused the papers. A perusal of the statement of witness-

Jyoti Kadam, the supplementary statement of the prosecutrix's father as well as the statement of the prosecutrix, shows that there was a lover affair between the prosecutrix and the applicant, aged 23 years and that there were physical relations between them. It also appears from the said statements that the prosecutrix had gone to Rahul's grandmother's house, as her parents were against the relationship and had even assaulted her. Although there are allegations of sexual assault, the medical report in Column VI, shows that injury to hymen-absent, no perineal tear and Column g and h, also as normal. Even the history given by the prosecutrix is of an affair and of having gone to her cousin's place, without informing her parents, because of some altercation with her parents. It also appears that the applicant and the prosecutrix are distantly related.

4. Learned Counsel for the Applicant also relied on certain photographs to show the proximity of the applicant and the prosecutrix. The applicant is in custody since 26th July, 2017. Investigation is complete and charge- sheet is filed.

5. No doubt, since the prosecutrix was a minor, consent is

immaterial. However, having regard to the peculiar facts and circumstances of this case, 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 furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- ii) The Applicant shall not enter the jurisdiction of Kapurbawdi Police Station, Thane, where the prosecutrix resides, till the conclusion of the trial;
- iii) 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 trial Court as well as to the concerned Police Station, in writing;
- iv) The Applicant shall co-operate in the conduct of the trial and shall attend the Court on every date of hearing;
- v) The Applicant shall not tamper with the evidence or attempt to

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

vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the Registry of the trial Court, within two week's of his release;

vii) It is made clear, that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

6. The Application is allowed and disposed of in above terms.

7. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

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

(REVATI MOHITE DERE, J.)