

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 581 OF 2018**

Sandeep @ Deepak Ramdulare Kori ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Raviraj R. Paramane for the Applicant

Ms. P. N. Dabholkar, A.P.P for the Respondent-State

PSI Mr. I. F. Sayad from Kalwa Police Station, Thane City, is present

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 18th APRIL, 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-116 of 2017 registered with the Kalwa Police Station, Thane, for the alleged offences punishable under Sections 363 and 376 of the Indian Penal Code and under Sections 4 and 8 of the Protection of Children from Sexual Offences Act.
3. Perused the papers, in particular, the statement of the prosecutrix, who is a minor aged 15 years. According to the prosecutrix,

on 11th April 2017, the applicant called her pursuant to which, she reluctantly went to meet him at about 8:55 p.m near one Durga Temple. According to the prosecutrix, the applicant took her to Thane Station in a rickshaw and pursuant thereto, they sat in a train to go to Kanpur; that on 13th April, 2017, they reached Kanpur and from Kanpur they went to Lalganj and stayed with the applicant's sister; that on 14th April, 2017, all of them i.e. the prosecutrix, the applicant, his sister and sister's relative went to the Raibareli Court; that a Court Marriage of the applicant and prosecutrix was performed; that the Advocate who did the legal formalities, disclosed to them that the police would not visit his house and that they could stay in his house; that pursuant thereto, she and the applicant stayed in the Advocate's house for 5 days, where the applicant allegedly committed forcible sexual assault on her; that on 19th April, 2017, the applicant took her to his sister's house, where they stayed for a month, where again the applicant is alleged to have committed forcible sexual assault on her; that on 11th May, 2017, the applicant's mother called the applicant and informed that the police had taken his father and that if the prosecutrix was not brought back, they may also take her. She has further stated that pursuant thereto, the applicant dropped her at his sister's house

and on the next day i.e. on 12th May, 2017 dropped her at his grand mother's house and ran away. She has further stated that the applicant's grand mother took her to the Police Station and handed her over to Sareli Police.

4. Learned counsel for the applicant submitted that the prosecutrix had gone with the applicant on her own accord and that they were in a relationship. He relied on several letters written by the prosecutrix to the applicant expressing her love for him. He also submitted that some of the letters which show that the prosecutrix had ran away with the applicant on her own accord and that she was not kidnapped by the applicant, as is alleged.

5. Be that as it may, the prosecutrix being a minor, consent is immaterial. However, having regard to the peculiar facts of this case and the fact that investigation is complete and charge-sheet is filed and the fact that the applicant has no antecedents, 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 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 attend the concerned Police Station on the first Sunday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- (iii) The applicant shall not enter the jurisdiction of the Kalwa Police Station, except for attendance as per clause (ii) above;
- (iv) The applicant shall not leave Mumbai and Thane, without the permission of the trial Court;
- (v) The applicant shall not tamper the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) The applicant shall inform his latest place of residence and mobile contact number 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;

(vii) The applicant to cooperate with the conduct of the trial;

(viii) The applicant shall file an undertaking with regard to clauses (ii) to (vii) in the trial Court, within two weeks of his release;

(ix) If there are two consecutive defaults in appearing before the trial Court or in reporting to the Investigating Officer and 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.

6. The application is accordingly disposed of.

7. 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.

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

REVATI MOHITE DERE, J.