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

CRIMINAL BAIL APPLICATION NO.602 OF 2018

Sanjay @Sandesh Raghunath Mali	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.G.T.Kanchanpurkar, for the Applicant.

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

CORAM : REVATI MOHITE DERE, J.

DATE : 27th 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-133 of 2017 registered with the Palghar Police Station, for the alleged offences punishable under Sections 363, 366 and 376 of the Indian Penal Code and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act.

3. Perused the charge-sheet. According to the complainant (mother of the survivor), her daughter, aged 17 years left home, at about 8.15 a.m., on 13th July, 2017, however, did not return home, pursuant to which, she lodged a complaint for the alleged offence punishable under Section 363 of the Indian Penal Code, against unknown persons. During the course of investigation, the survivor, complainant's daughter was found with the applicant at Mohale, Dongripada. As the statement of the survivor, revealed that there were physical relations between the survivor and the applicant, Sections 366 and 376 of Indian Penal Code and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, were added. A perusal of the prosecutrix's statement, aged 17 years shows that she knew the applicant and that their friendship developed into a love affair. She has stated that the applicant told her that they should run away and get married, pursuant to which, on 13th July, 2017, she on her own accord, went to Palghar Railway Station, where she met the applicant and thereafter from there, she went to Dhuktan, where they stayed in the applicant's home. She has stated that thereafter they went to the applicant's cousin house, where they had physical relations. She has stated that the applicant had not forced her into any physical relationship and that she had gone with

the applicant on her own accord. No doubt, consent is immaterial, since the complainant/prosecutrix was aged about 17 years at the relevant time, however, in the peculiar facts of the present case; the fact that the applicant is in custody since 28th July, 2017 and that investigation is complete and charge- sheet is filed, 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.25,000/- with one or two 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 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 not tamper with the evidence or attempt to influence/contact/threaten the complainant, prosecutrix, witnesses or any person concerned with the case;

v) The Applicant shall co-operate in the conduct of the trial;

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

vii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

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

5. 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.

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

(REVATI MOHITE DERE, J.)