

Anand

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

BAIL APPLICATION NO. 607 OF 2018

Rahul Mahesh Kanade

.Applicant

Vs.

The State of Maharashtra

.Respondent

Ms Anjali Patil i/b. Mr. A. Badar, Advocate, for the Applicant
Mrs. J. S. Lohokare, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 14.03.2018

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. 272 of 2017 registered with the Bhoiwada Police Station, Mumbai, for the alleged offences punishable under Sections 363, 354, 376 of the Indian Penal Code and under Sections 4, 6, 8 & 12 of the Protection of Children from Sexual Offences Act (for short 'POCSO' Act).

3. Perused the charge-sheet. The Applicant aged 18 years and the prosecutrix, a minor aged about 13 years started interacting with each other on Facebook and thereafter, their friendship developed into a

love affair. According to the prosecutrix, the Applicant had physical relations with her on a few occasions and later, a complaint was lodged alleging the aforesaid offences. Although in the 161 statement, the prosecutrix has alleged that the physical relations were without her consent, in the 164 statement, the prosecutrix has not disclosed about any physical relations with the Applicant. The prosecutrix in her 164 statement has only stated that they had met each other on Facebook and thereafter, their friendship developed into a love affair and that the Applicant had sent a message professing his love for her. A perusal of the Whats app messages exchanged between the Applicant and the prosecutrix also reveals the nature of friendship between the two. Since the prosecutrix was a minor, no doubt consent is immaterial. It may be noted that, in the history disclosed by the prosecutrix to the Doctor, she has stated that the Applicant was residing in the vicinity and was in contact with her for about six months and that the physical relations were consensual and were not forced upon her. The Applicant is in custody since 10.12.2017 and investigation is complete and charge-sheet is filed.

4. Considering the aforesaid and in the peculiar facts & circumstances of this case, 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 sureties in the like amount;
- (ii) The Applicant shall report to the investigating officer of 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 Currey Road where the prosecutrix is residing;
- (iv) The Applicant shall furnish his fresh / new address where he would be residing both, to the trial Court as well as to the concerned police station;
- (v) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant and/or prosecutrix, witnesses or any person concerned with the case;
- (vi) The Applicant to cooperate in the conduct of the trial.

5. The Application is allowed in the aforesaid terms and is accordingly disposed of.

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

(REVATI MOHITE DERE, J.)