

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.763 OF 2018

Abdul Aahad Iqbal Qureshi, Age 22 years,
Occ.Driver, R/o.Davagi Dongar,
Near Masjid, Behind MBMC Toilet,
Post Uttan, Dist.Thane, permanently r/o.
Katra Market, Miya Sarai, Near Killa,
Janpat Sambhal, Uttar Pradesh
(Presently lodged at Thane Central Prison)

Applicant

versus

The State of Maharashtra

Respondent

Mr.Kuldeep S. Patil for applicant.

Ms.A.A.Takalkar, APP, for State.

Mr.,Rakeef T. Shaikh, brother of applicant, is present.

Mr.Iqbal Qureshi, father of accused, is present.

CORAM : PRAKASH D. NAIK, J.

DATE : 1st October 2018

PC :

1. The applicant is arrested in CR No.I-70 of 2016 registered with Uttan Sagari Police Station, District Thane for offences under Section 376 of Indian Penal Code and under Sections 3, 4 and 6 of Protection of Children from Sexual Offences Act. The FIR was lodged by the victim herself on 10th September 2016 wherein it is alleged that the victim got acquainted with the accused in November-2015. He used to represent that he is in love with her and would marry her. The accused used to call the victim and considering his assurances that he would marry her, the victim used to meet him and there was physical relationship between them. About 10 to 15 times there was sexual relationship between them. Thereafter the accused left for

Delhi all of a sudden and started working there. The victim used to talk to him on his mobile phone. Subsequently it was noticed that the victim has conceived. This fact was informed by her to the accused. Thereafter he assured that he would come to her place and would marry her. It was subsequently found that the accused was already married. The victim has thereafter delivered the child.

2. It is submitted by learned counsel for applicant that the applicant is willing to marry the victim child after she attains majority. The father of the first wife of the applicant had also filed an affidavit before the Sessions Court in support of the applicant which is part of this application.

3. The applicant had forwarded the undertaking which was signed before the jail authorities. The said undertaking is tendered by the counsel for applicant. In the said undertaking it is stated that after the applicant is released on bail and the victim attains the age of majority, he would take complete responsibility to maintain the victim and the new born child and that he would also marry her. It is also stated that his family members including his first wife has no objection of his marriage with the complainant. All the family members also desire that he should marry the complainant. The said affidavit is taken on record and marked "X" for identification. The brother of complainant is present in the Court. He has also tendered the affidavit sworn on 24th August 2018. In the said affidavit it is stated that the family members of applicant including his wife has no objection for the applicant marrying his sister and that his family members also desire that the applicant should marry his sister (victim) and take responsibility of maintaining her and new born

child. The said affidavit is also taken on record and marked “Y” for identification. The father of applicant is also present in the Court. Learned counsel for applicant also pointed out that the father of applicant has filed affidavit before the Sessions Court which is annexed to this application stating that the dispute has been settled and after the release of his son (applicant), he would marry the victim. The brother of complainant and the father of applicant are present in the Court. The brother of complainant has confirmed the contents of affidavit tendered in the Court.

4. The victim was minor at the time of incident. It appears that the victim and the applicant were in relationship. Although the victim was minor at the time of incident, the accused assured that he would marry her. It is pertinent to note that the victim has delivered a child and in the interest of child and the victim the assurance made by the applicant and his family members is taken into consideration for grant of bail. Considering the aforesaid circumstances, bail can be granted to the applicant. However, it is made clear that breach of the undertakings given in the affidavit of applicant, would entail legal consequences and cancellation of bail granted to the applicant.

5. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.763 of 2018 is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with CR No.I-70 of 2016 registered with Uttan Sagari Police Station, District Thane, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

- (iii) The applicant shall report the Uttan Sagari Police Station once in a month on every first Friday between 10 am and 12 noon;
- (iv) The applicant shall adhere to the undertaking filed before this Court. The breach of undertakings would entail legal consequences and cancellation of bail granted to him.

(PRAKASH D. NAIK, J.)

MST