

Anand

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

BAIL APPLICATION NO. 859 OF 2018

Yogesh Dineshchandra Verma .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. A. S. Jondhale, Mrs. Y. A. Jondhale, Mr. Babu Singh i/ b. Jondhale
& Co., Advocate, for the Applicant

Mrs. J. S. Lohokare, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 23.04.2018

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. 230 of 2017 registered with the Wadala T. T. Police Station, Mumbai, for the alleged offence punishable under Section 363 of the Indian Penal Code.

3. Perused the charge-sheet. According to the prosecution, the Applicant, aged 19 years had kidnapped the prosecutrix, aged 16 years and taken her to Nasik, Banaras etc. on 02.04.2017. Pursuant thereto,

the prosecutrix's mother lodged an FIR as against the Applicant alleging the offences punishable under Sections 363, 376 etc.. Pursuant thereto, the Applicant was arrested and thereafter, enlarged on bail. It appears that subsequently, again the Applicant and the prosecutrix met in June, 2017 and that they went to Uttar Pradesh and Gujarat where the Applicant was arrested. Pursuant to the second episode again the aforesaid FIR, being C. R. No. 230 of 2017 came to be registered as against the Applicant alleging the aforesaid offences. Although according to the prosecution, the Applicant, aged 19 years had kidnapped the prosecutrix, aged 16 years, a perusal of the history given by the prosecutrix to the Doctor shows that the Applicant and the prosecutrix were in love for about two years; that they would meet often; that on 02.04.2017, the prosecutrix had run away with the Applicant and returned on 03.05.2017; after that she did not contact the Applicant for two months; that on 26.06.2017, she called the Applicant and eloped with him and went to Uttar Pradesh and stayed at the Applicant's friend's house and thereafter, moved to Gujarat and started living in a rented room where they were apprehended by the police on 05.12.2017 and brought to Mumbai. The prosecutrix has also in a history stated that the physical relations between them were with consent. Since the prosecutrix was a minor, aged 16 years, consent is

immaterial. A perusal of the papers, including the letter at page No. 99 of the Application reveals the relations between the prosecutrix, aged 16 years and the Applicant, aged 19 years. It appears that the Applicant has been enlarged on bail in the earlier C. R. lodged against him by the prosecutrix's mother.

4. Considering the peculiar facts & circumstances of this case and the fact that investigation is complete and charge-sheet is filed, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

- (i) The Applicant be enlarged **on cash bail** in the sum of **Rs. 15,000/-** for a period of four weeks from today;
- (ii) The Applicant shall within the said period of four weeks, furnish P. R. Bond in the sum of Rs. 15,000/- with one or two local solvent sureties in the like amount;
- (iii) 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. and 11:00 a. m.** for a period of 24 months;
- (iv) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person

concerned with the case;

(v) The Applicant shall not enter the jurisdiction of the Wadala T. T. Police Station or Dongri Police Station, except for the purpose of attending the police station;

(vi) The Applicant to cooperate in the conduct of the trial;

(vii) 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;

(viii) The Applicant is at liberty to apply for modification of Clause (v) after passage of some time.

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

6. 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.

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

(REVATI MOHITE DERE, J.)