

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

BAIL APPLICATION NO. 1805 OF 2018

Akshay Ashok Jadhav

... Applicant

Vs.

State of Maharashtra

... Respondent

...

Ms. Pramothi B. Pawar for the applicant.

Mr. R.M. Pethe, APP for the Respondent-State.

Mr. Pravin Rane, P.I. Malad Police Station is present in person.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 21st AUGUST, 2018.

P.C.

1. This is an application for bail. The complaint was registered on 27th March, 2018. The applicant was arrested on 28th March, 2018. The First Information Report was registered with Malad Police Station vide C.R.No. 177 of 2018 for offence under Section 376, 354(A) of Indian Penal Code and Sections 3 and 7 of POCSO Act. The provisions of POCSO attracted on the basis of age reflected in the First Information Report.

2. The case of the prosecution is that the complainant-victim and accused were acquainted with each other. Incident of sexual intercourse had occurred in January, 2017. The accused had promised her of marriage and there were repeated incident of

physical relationship between them. It is alleged that subsequently the accused had backed out from the promise. The victim was pregnant and subsequently she delivered a child.

3. Learned counsel for the applicant drew my attention to the birth certificate which is part of chargesheet which indicates that the age of the complainant was 21 years at the time of incident. It appears that relationship between the complainant and accused were consensual and there were repeated act of physical relationship. It is submitted that applicant is in custody from the date of arrest.

4. Learned APP submitted that the accused had promised to victim about marriage which was not fulfilled by him. He had back out from the promise. The victim was pregnant and subsequently she delivered a child. The DNA report is also awaited.

5. Although, the victim has disclosed her age of 17 years in the first information report. Birth Certificate indicates that she was 21 years at the time of alleged incident. First incident of alleged sexual assault had occurred on January, 2017 and thereafter the victim and accused indulged the physical relationship as the accused had promised of marriage with her. Thus, it is clear that

the victim was major at the time of incident. Subsequently, the charge of POCSO Act was deleted. The investigation is complete and chargesheet is filed. There are no criminal antecedents against the accused. In the circumstances, bail can be granted on certain conditions. Hence, I pass the following order.

ORDER

- i) Criminal Bail Application No. 1805 of 2018 is allowed.
- ii) The applicant is directed to be released on bail in connection with C.R. No. 177 of 2018 registered with Malad Police Station which is subject matter in Session Case No. 210 of 2018 pending before the Sessions Court at Borivali Division, Dindoshi on furnishing P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or more sureties in the like amount;
- iii) The applicant shall attend Malad Police Station once in a month on first Saturday between 10 a.m. to 12 noon till further order;
- iv) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- v) The application stands disposed off.

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Sachidanand
Kuttan Nair
Date:
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(PRAKASH D. NAIK, J.)