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

***CRIMINAL BAIL APPLICATION NO.1938 OF 2017***

|                                 |               |
|---------------------------------|---------------|
| Kiran @Suresh Balaji Shivbhagat | ...Applicant  |
| Versus                          |               |
| The State of Maharashtra        | ...Respondent |

Mr.V.V.Salunke, i/b Mr.D.R.Shinde, for the Applicant.

Mr.A.A.Palkar, A.P.P for the Respondent-State.

***CORAM : REVATI MOHITE DERE, J.***

***DATE : 9<sup>th</sup> 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-43 of 2017 registered with the Central Police Station, Ulhasnagar, Thane, for the alleged offences punishable under Sections 363, 366, 376, of the Indian Penal Code and under Section 4 of Protection of Children from Sexual Offences Act.

3. Perused the charge-sheet, in particular the statement of the prosecutrix. A perusal of the charge-sheet shows that the applicant, aged 20 years and the prosecutrix, a minor, were in love and that the prosecutrix had left her parent's house on her accord with the applicant. A perusal of the statement recorded of the prosecutrix as well as her mother shows the relations between the applicant and the prosecutrix and the fact that the applicant and the prosecutrix had run away from home, after which, the applicant had physical relations with the prosecutrix. Although in the 164 statement, which is recorded after two months, the prosecutrix has alleged that the applicant had forcibly taken her and that thereafter had sexually assaulted her, the first statement of the prosecutrix recorded first in point of time as well as the statement of the prosecutrix's mother are to the contrary. No doubt, consent is immaterial, considering the fact that the prosecutrix was a minor. There are certain love letters written by the prosecutrix to the applicant. The same are part of the charge-sheet. Learned counsel for the applicant has tendered the full charge-sheet, which includes the letters. The same is taken on record. The applicant is in custody since February, 2017. Investigation is complete and charge-sheet is filed.

4. Considering the aforesaid, 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.20,000/- 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 enter the jurisdiction of Central Police Station, Ulhasnagar, Thane, except for the purpose of attending the police

station, as mentioned in clause (ii), till the conclusion of the trial;

v) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

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

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

viii) 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.

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

6. 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.

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

***(REVATI MOHITE DERE, J.)***