

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

BAIL APPLICATION NO. 2152 OF 2018

Anil Baban PawarApplicant

V/s.

The State of MaharashtraRespondent

Mr. Priyal G. Sarda I/b. Mr. Sachin T. Zalte for the applicant.

Mr. S.R. Agarkar, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 09th OCTOBER, 2018.

P.C.:

. This is an application for bail under Section 439 of Criminal Procedure Code filed by the aforesaid applicant, who has been arrested in C.R.No.36/2018 registered with Otur Police Station, District Pune for offences punishable under sections 376(n) of the Indian Penal Code.

2. Heard Mr. Priyal Sarda, learned counsel for the applicant. He submits that the first information report prima facie reveals that the relationship was consensual. The prosecutrix is a major and hence the provisions of section 376 are not applicable. Mr. S.R. Agarkar, learned APP submits that the prosecutrix was pregnant and that the applicant

had declined to marry the prosecutrix despite having promise to marry her.

3. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

4. The aforesaid crime was registered pursuant to the first information report lodged by the prosecutrix. The first information report as well as the other material on record prima facie reveals that the first informant is a 23 year old girl. The first information report prima facie reveals that she was living with the applicant since the year 2016 and that she was having sexual relationship with him since then. The physical relationship between the applicant and the prosecutrix was consensual. The prosecutrix has filed the first information report only when the applicant refused to marry her. In my considered view, considering the age of the prosecutrix and the fact that the relationship was consensual, prima facie, the provisions of section 376 are not applicable.

5. It is submitted that the investigation is completed and the charge sheet has already been filed. Hence, the presence of the applicant is no

longer required in custody for the purpose of interrogation and investigation. The applicant is a permanent resident of Otur, Pune and hence, there are no chances of the applicant absconding and/or thwarting the course of justice. The applicant has no criminal antecedents. In view of the above facts and circumstances, the Application is allowed on following terms and conditions :-

- (a) The applicant who is arrested in C.R.No.36/2018 registered with Otur Police Station, District Pune is ordered to be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Fifty Thousand) with one or two solvent sureties in the like amount.
- (b) The applicant shall furnish his permanent address and temporary address, if any, and his contact details to the concerned Court.
- (c) The applicant shall not change his residential address without prior intimation to the Investigation Officer and the concerned Court.
- (d) The applicant shall not interfere with the complainant or the other witnesses in any manner and shall not tamper with the evidence.

(SMT. ANUJA PRABHUDESSAI, J.)