

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2465 OF 2018

Dinesh Chandrasekhar Singh, Age 32 years,
R/o.Room No.50, Patel Compound Welfare
Society, Near Machhi Market, Appa Pada,
Kurar Village, Malad (East),
Mumbai-400 092.

Applicant

versus

The State of Maharashtra

Respondent

Mr.S.V.Marwadi with Ms.Trupti Khamkar for applicant.
Mr.A.R.Kapadnis, APP, for State.
Mr.Khandagale, PSI, Kurar Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 31st October 2018

PC :

1. This is an application for bail. The applicant is arrested in connection with CR No.216 of 2018 registered with Kurar Police Station under Sections 376(2)(i), (j), (n), 354, 363 of Indian Penal Code and Sections 4, 8 and 12 of Protection of Children from Sexual Offences Act, 2012.

2. The prosecution case is that the victim is the student and she was acquainted with the applicant-accused. The FIR was lodged by mother of the victim. The statement of victim indicate that on 20th February 2018 the accused persuaded her to go out for stroll. Both of them went to Aqsa Beach. From there they went to Dahisar check naka and went to the lodge. There was physical relationship between the victim and the applicant. The victim is allegedly aged

about 16 years and 7 months. Thereafter in March-2018 the accused and victim had physical relationship on 4 to 5 occasions. The accused represented to her that he is in love with her and pursuant to that on several occasions there was sexual intercourse with her. On 6th April 2018 the victim and the accused decided to go to Shirdi. They went to Dadar Station and after realizing that train for Shirdi is on the next day, they waited at Dadar Railway Station. On 8th April 2018 the victim and applicant went to Nashik and from there they went to Shirdi. They stayed at hotel. There was physical relationship between them on 5 to 6 occasions. On 12th April 2018 they returned to Mumbai and she reached her residence on 13th April 2018. The investigating officer has collected several documents including Aadhar Card and register of hotel which indicate that both of them had stayed together. The statement of victim was recorded u/s 164 of Cr.P.C. The Aadhar card which is recovered during the course of investigation indicate that the year of birth of the victim is of 1998. The police have also recovered school leaving certificate of the victim which shows that her age is about 16 years 7 months.

3. Learned counsel for applicant submitted that relationship was consensual. The Aadhar card produced by the victim shows that she was major. On several occasions there was physical relationship as stated in the FIR. Although according to the prosecution the victim was minor at the time of incident, taking into consideration the nature of relationship and the fact that there was physical relationship on multiple occasions, the applicant be granted bail. He is in custody since the date of arrest. Investigation is completed and charge sheet is filed.

4. Learned APP submitted that the victim was minor at the time of incident which is apparent from the school leaving certificate. The statements under Sections 164 and 161 clearly attribute role to the applicant having committed sexual intercourse. It is submitted that the victim being minor, her consent is immaterial. The school leaving certificate clearly shows that she was minor at the time of incident.

5. Having heard both sides I have gone through the documents. The applicant has been arrested on 13th April 2018. The investigation is completed and charge sheet is filed. On perusal of statement of victim it is apparent that on several occasions there was physical relationship between the applicant and victim. No doubt school leaving certificate of victim shows that her age was around 16 years 7 months. Aadhar card which is produced by the victim at the time of admitting her along with applicant at the hotel, shows that year of her birth was 1998. The relationship appears to be consensual. Considering the aforesaid circumstances and more particularly the fact that investigation is completed and charge sheet is filed, further detention of the applicant is not required. In the circumstances case for grant of bail is made out.

6. Hence, I pass following order :

ORDER

(i) Criminal Bail Application No.2465 of 2018 is allowed and disposed off;

- (ii) The applicant is directed to be released on bail in connection with CR No.216 of 2018 registered with Kurar Police Station, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall attend Kurar Police Station once in a month on every first Saturday between 10 am and 12 noon till further orders;
- (iv) The applicant shall not tamper with evidence and shall not approach the victim or her family members and further shall not try to contact the victim and her family.

(PRAKASH D. NAIK, J.)

MST