

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 2669 OF 2018**

Sunil Bhairavnath Palave

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. Arun Rajput I/by Anjali Patil for the Applicant.
Smt. J.S. Lohokare APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE :29th NOVEMBER, 2018.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 125 of 2018 dated 11th June, 2018 registered with Alandi Devachi Police Station, District Pune (Rural) under Sections 376(1)(2)(n), 506 of the Indian Penal Code and under Sections 3 (a), 4, 5(j)(ii)(l)6 of the Protection of Children From Sexual Offences Act, 2012 (POCSO Act), now culminated into Special (POCSO) Case No.48 of 2018.

2 Heard the learned counsel appearing for the Applicant and the learned APP. Perused the charge-sheet.

3 The prosecutrix was aged about 17 years and 5 months on the date of lodgment of the crime and therefore, with a view to

protect her identity and in consonance with the provisions of Section 228(A) of the Indian Penal Code and Section 33(7) of the POCSO Act, the detailed narration of the facts mentioned in the first information report and in the statement of the prosecutrix is hereby avoided.

4 The first information report is lodged by the prosecutrix/victim herself. It is stated that, she was having acquaintance with the Applicant. Their acquaintance was blossomed into love affair and thereafter, the Applicant proposed her for marriage. That, the Applicant by giving promise to marry, established physical relations with her. That, in the month of June 2018, it was realized that, the prosecutrix is pregnant and therefore, she was taken to Sassoon Hospital, Pune for abortion. The Doctors at Sassoon Hospital, Pune informed the said fact to the Police Station and therefore, the present crime has been registered. As the prosecutrix was minor on the date of the lodgment of the crime, the provisions of the POCSO Act are applied to the present crime.

During the course of the investigation the Applicant came to be arrested on 13th June, 2018 and after completion of investigation, the police have submitted charge-sheet.

5 The first information report itself mentions that, the

prosecutrix was having love affair with the Applicant. The prosecutrix, at the time of performing her medical examination, has given statement before the Medical Officer that, she was having a love affair with the Applicant one year prior to the date of the said examination i.e. 10th June, 2018 and she had consensual physical relations with the Applicant on several occasions. The record indicates that, the prosecutrix had attained the age of understanding and discrimination when she entered into an affair with the Applicant. It is submitted that, the prosecutrix has already performed medical termination of pregnancy.

7 As noted earlier, the Applicant is in Jail since 13th June, 2018 and the investigation of the present crime is already completed. No purpose will be served by further keeping the Applicant in incarceration and the Applicant can be released on bail.

Hence the following order-

- a) The Applicant shall be released on bail in CR No. 125 of 2018, dated 11th June, 2018 registered with Alandi Devachi Police Station, District Pune (Rural) on his furnishing PR bond of Rs.20,000/- with one or two solvent local sureties in the like amount.

- b) After his release from Jail, the Applicant shall attend the Alandi Devachi Police Station, District Pune (Rural) on every first Monday of the month between 11.00 a.m. and 2.00 p.m.
- c) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.
- d) The Applicant is permitted to furnish cash bail for a period of six weeks from today and in the said period he shall complete the procedure of furnishing the sureties.

8 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)