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

CRIMINAL BAIL APPLICATION NO.2578 OF 2017

Dilawar Noormohammad Mansur	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.V.O.Dubey, for the Applicant.

Ms.A.A.Takalkar, A.P.P for the Respondent-State.

PSI – Varsha Janvad, Bangur Nagar Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 27th 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.93 of 2017 registered with the Bangur Nagar Police Station, Mumbai, for the alleged offences punishable under Section 376 of the Indian Penal Code and under Sections 3 and 4 of Protection of Children from Sexual Offences Act.

3. Perused the charge-sheet in particular the statement of the survivor/prosecutrix, recorded under Section 161 as well as under Section 164 of the Code of Criminal Procedure. According to the prosecutrix, aged 17 years, she met the applicant, four years prior, as he was residing in the same area. She has alleged that they started meeting regularly and that their friendship developed into a love affair; that they started going to several places and that the applicant told her that he would marry her. The prosecutrix has further alleged that the applicant started visiting her house and meeting her, when all her family members were away and had physical relations with her on 4 or 5 occasions. She has stated that she became pregnant and informed the applicant about the same, pursuant to which, the applicant took her to a clinic, where the pregnancy was confirmed. The prosecutrix has further alleged that her mother learnt about her pregnancy and questioned the applicant about the same and that she, her mother and the applicant visited the hospital for abortion, however, the doctor refused to do the abortion. She has stated that thereafter the applicant took them to his sister's house, where she was kept for 2 days. She has stated that the applicant told her that they would perform court marriage and sent her back to her mother's house. She has stated that after few days, the applicant's

mother sent the applicant to their native place, pursuant to which, her mother lodged the aforesaid complaint. According to the prosecution/survivor, on 25th May, 2017, due to labour pains, she was taken to the hospital, where she gave birth to a baby boy. She has stated that, she named her child 'X' (name withheld) as she was in love with the applicant and had changed her name, as per the Muslim religion. The statement of the prosecutrix recorded under Section 164 of Code of Criminal Procedure is almost identical.

4. No doubt, consent is immaterial, since the complainant/prosecutrix was aged about 17 years at the relevant time. The applicant, aged 21 years, is in custody since 20th May, 2017. Having regard to the peculiar facts and circumstances of the case and the fact that investigation is complete and charge- sheet is filed, 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 12:00 noon, for a period of 12 months from today;
- 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 contact the complainant/prosecutrix, witnesses or any person concerned with the case;
- v) The Applicant shall co-operate in the conduct of the trial.

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.)