

CRIMINAL BAIL APPLICATION NO. 14 OF 2019

Vs.

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Mr. K.S. Dhube, Police Inspector, Ghatkopar Police Station is present.

...

DATE : 21st FEBRUARY, 2019.

P.C.

1. This is an application for bail in connection with C.R. No. 502 of 2018 registered with Ghatkopar Police Station for the offences punishable under Sections 363, 376 of Indian Penal Code and Sections 4, 6, 8, 12 of POCSO Act.
2. Prosecution case is that the victim was missing from the house and hence the father of the victim had lodged the complaint with the Police Station. Subsequently, the victim was traced. Her statement was recorded by the police. Statement of other witness was also recorded under Sections 161 of Code of Criminal Procedure. Statement of the victim was recorded under section

164 of Code of Criminal Procedure. It is stated by the victim that she was aged about 15 years and on account of quarrel with her parents she had left the house. She boarded train to Delhi and during journey she got acquainted with the applicant. Applicant accused showed her sympathy and without her consent had physical relationship with her. Investigation is completed and chargesheet has been filed.

3. On perusal of the statement of the victim recorded on 21st August, 2018 it appears that on 18th August, 2018 she had left the house without informing her family members and went to Kurla Railway Station. She boarded train to Panvel. From Panvel she boarded another train and during the journey she got acquainted with the applicant. On 17th August, 2018 both of them reached at Nizamuddin Station, New Delhi. They visited several places. They booked room in the guest house. Applicant had physical relationship with her without her consent. On 18th August, 2018, she informed the applicant that she wants to visit the house of her friend to attend the marriage ceremony. Applicant then booked tickets and thereafter victim went to the house of her friend. Father of her friend then told her to return to her parents. The victim then went to the house of the applicant. Subsequently, she

returned back to Mumbai. Applicant was arrested. Investigation is completed and chargesheet has been filed.

4. Learned counsel for the applicant submits that both victim and the applicant were acquainted with each other and there was physical relationship between them. Learned counsel for the applicant submits that relationship was consensual.

5. Learned APP submitted that the victim was minor at the time of incident. Consent of the victim is immaterial. There is evidence of applicant having relationship with the victim.

6. I have perused the statement of the victim under Section 164 of Code of Criminal Procedure. In the said statement she has stated that on account of problems in her house, she left the house and went to Kurla Railway Station. She boarded train namely Tripuram Express alongwith applicant. She stayed with him and thereafter she went to the friend's house. In the said statement she did not state that accused had forcible physical relationship with her. Statement of the victim also disclose that she was acquainted with the applicant and both of them had boarded together. Said version is contrary to the version reflected in the statement under Section 161 of Code of Criminal Procedure. Considering the aforesaid aspect, further detention of the applicant is not

necessary. Investigation is completed and chargesheet has been filed. Hence, case for grant of bail is made out.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with C.R. No. 502 of 2018 registered with Ghatkopar Police Station on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more local solvent sureties in the like amount;
- iii. Applicant is permitted to furnish cash security in the sum of Rs.25,000/- for a period of six weeks;
- iv. Applicant shall attend the Investigating Officer of the concerned Police Station once in a month between 11 a.m. to 1 p.m. till further order;
- v. Applicant shall not tamper with the evidence;
- vi. Application stands disposed off.

(PRAKASH D. NAIK, J.)