

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

Cri. BAIL APPLICATION NO. 212 OF 2019

Asif Sattar Shaikh

... Applicant.

V/s.

The State of Maharashtra

... Respondent.

Mr. Bharat K. Manghani, Advocate, for the Applicant.

Mrs. A. A. Takalkar, APP for the State.

(Mr. N.P. Parab, PI, Juhu Police Station, is present.)

CORAM : PRAKASH D. NAIK, J.

DATE : MARCH 07, 2019.

PC :

1 The applicant is seeking bail in CR No. 170 of 2018, registered with Juhu Nagar Police Station, for the offence under section 376 of the Indian Penal Code, read with sections 4, 8, 10 and 12 of the Protection of Children From Sexual Offences Act, 2012.

2 FIR was lodged on 10.04.2018. At the time of lodging of FIR, the victim was aged about 17 years & 2 months. It is alleged in the FIR that she got acquainted with the applicant in May, 2016. The applicant-accused had promised the victim that he would marry her. There was sexual relationship between them. On several occasions they

had physical relations at various places. Subsequently, she had conceived. She informed about the same to the accused. The accused was insisting that she should terminate pregnancy. The victim was medically examined. History provided to the hospital, mentioned that survivor was in relationship with the accused for last four years and they had consensual sexual intercourse multiple times. They went to Ajmer and performed Nikah (marriage) with consent. Since the applicant accused stated that he would not take care of her, in anger and outburst, the victim lodged a police complaint against the applicant-accused.

3 Learned counsel for the applicant submitted that physical relationship of accused with the victim was consensual. The applicant is in custody from 10th April, 2018 .

4 Learned APP, on instructions, submits that the victim was not available for conducting DNA test. Investigation is completed and the chargesheet is filed.

5 Considering the allegations made in the first information report and history provided during the medical examination, it appears that the victim and applicant were in relationship for about four years. The statement of the victim was also recorded under section 164 of the Cr. P.C., wherein

she has stated that she is in relationship with the applicant but, as she was apprehending that the applicant may leave her alone, she had lodged the complaint. Hence, a case for bail is made out.

ORDER

- i. Bail Application No. 212 of 2019 is allowed and disposed of.
- ii. The applicant is directed to be released on bail in connection with CR No. 170 of 2018, registered with Juhu 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 is permitted to furnish a cash security in the sum of Rs. 25,000/- for a period of six weeks from the date of release.
- iv. Applicant shall report concerned police station once in a month, on first Saturday of month between 11 a.m. to 1 p.m. and thereafter, as and when called.
- v. The applicant shall not tamper with prosecution evidence.

(PRAKASH D. NAIK, J.)

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