

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

Cri. BAIL APPLICATION NO. 357 OF 2019

Vivek Shivdhani Yadav

... Applicant.

V/s.

The State of Maharashtra

... Respondent.

Mr. Karan Mertia, Advocate I/by Tanveer Farooqui for the Applicant.

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

(Mr. M. P. Patil, PSI, Kasturba Marg Police Station, is present.)

CORAM : PRAKASH D. NAIK, J.

DATE : MARCH 07, 2019.

PC :

1 The applicant is seeking bail in CR No. 91 of 2018, registered with Kasturba Marg Police Station, for the offences under sections 363 & 376 of the Indian Penal Code, read with sections 4, 8 and 12 of the POSCO Act..

2 Initially, FIR was registered for the offence under section 363 of the Indian Penal Code. The victim had left her house in the night of 16.02.2018. She was taken in custody by the female staff of the police. Her statement was recorded on 22.02.2018. The applicant was arrested on 19.02.2018. The statement of the victim indicates that she was acquainted

with the applicant. She left her house in the mid-night and tried to contact applicant. She hired Auto – Rikshaw from Mira Road and reached the place at about at about 1.30 a.m. After reaching Mira Road, she took mobile phone of Auto-Rikshaw driver and established contact with the applicant accused. Thereafter, the victim and the applicant sat in a tempo and allegedly there was physical relationship between them. Thereafter, on the next day, the accused told her to return back to her home and he gave Rs. 200/- towards traveling. Medical examination of the victim was conducted. In the history provided to the doctor, she had stated that she was in relationship with other persons prior to this present incident. She had consensual intercourse with the applicant on the date of the incident. Ossification test of the victim was conducted, which indicate that her age is around 16 to 17 years.

3 On perusal of the documents, it is apparent that the victim had left the house in the midnight and tried to contact the applicant. She could meet the applicant - accused at around 1.30 a.m. in the night. Thereafter, there was physical relationship between them.

4 The applicant is in custody since 19th February, 2018 . There are no antecedents against the applicant.

5 In the aforesaid circumstances, bail can be granted to the applicant.

ORDER

- i. Bail Application No. 357 of 2019 is allowed and disposed of.
- ii. The applicant is directed to be released on bail in connection with CR No. 91 of 2018, registered with Kasturba Marg Police Station, on furnishing PR Bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.
- iii. Applicant shall report to concerned police station once in a month, on first Saturday of month between 11 a.m. to 1 p.m. till further orders.

(PRAKASH D. NAIK, J.)

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