

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

CRIMINAL BAIL APPLICATION NO. 548 OF 2019

Rajan Kumar @ Rajan Gautam		
@ Rajkumar Rohitkumar Yadav	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

- Mr.Rupesh Maurya for the Applicant.
- Mrs.A.A. Takalkar, APP for the Respondent-State.

CORAM : PRAKASH D. NAIK, J.

DATE : 1st MARCH, 2019.

P.C. :

1] This is an application for bail in connection with C.R. No. 452 of 2018 registered with Kurar Police Station for the offence punishable under Section 376(2) of the Indian Penal Code read with Section 4, 6 and 8 of the POCSO Act. The FIR was lodged by the aunt of the victim. The statement of the victim was recorded on 20th August, 2018. From the tenure of the said statement, it is apparent that the victim was acquainted with the Applicant and since last six years, they were having love affair. It is further stated that in June 2018 the Applicant took the victim to his premises and had physical relationship with her. Even thereafter both of them had physical

relationship. The victim had conceived and the pregnancy was terminated.

2] Learned counsel for the Applicant submits that the victim was aged about 16 years at the time of incident. There was an affair between the Applicant and the victim for a period of 6 years. Although the victim is minor, the relationship was consensual, the Applicant is in custody from 21st August, 2018. Learned APP submits that the statement of the victim recorded under Section 164 of the Criminal Procedure Code categorically mentioned that the relationship was not consensual. The Applicant had forcefully committed sexual intercourse with the victim.

3] I have perused the statement of the victim recorded under Section 164 of the Cr.P.C. as well as under Section 161 of the Cr.P.C.. As stated above, in her initial statement, the victim had stated that she was in relationship with the Applicant and there was physical relationship between them on multiple occasions. The statement under Section 164 of the Cr.P.C. also indicates that the victim and the Applicant were friendly with each other for a period of one year. He took her to some station by train and thereafter, to the resident of his uncle and after his relatives had gone out of the house, the accused

had committed sexual intercourse with him. However, from the statement recorded earlier, it is apparent that for a long time, both of them were acquainted with each other. The investigation is completed. The Charge-sheet is filed. Further detention is not called for.

4] Hence, following order.

:: ORDER ::

- (i) Bail Application No. 548 of 2019 is allowed and disposed of.
- (ii) The Applicant is directed to be released on bail in connection with C.R. No. 452 of 2018 registered with Kurar Police Station on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iii) The Applicant shall report concerned police station once in a month on first Saturday of the month between 11 am to 1 pm till further order.
- (iv) The Applicant shall not approach the complainant and the victim in any manner and he shall not tamper with the evidence.

- (v) The Applicant shall furnish the details of his place of residence and his contact number to the Investigating Officer after his release on bail.
- (vi) The Applicant is permitted to furnish provisional cash security in the sum of Rs.25,000/- for a period of six weeks.

[PRAKASH D. NAIK, J.]