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

CRIMINAL BAIL APPLICATION NO.730 OF 2019

Nitin Chandramani Tiwari	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Arun Rajput, i/b Ms.Anjali Patil, for the Applicant.

Mr.S.V.Gavand, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 17th JULY, 2019

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.552 of 2018 registered with the Powai Police Station, Mumbai, for the alleged offences punishable under Section 376 of the Indian Penal Code and under Sections 4, 6, 8, 10 and 12 of Protection of Children from Sexual Offences Act.
3. Perused the papers. According to the prosecutrix, aged 17

years, she met the applicant aged 30 years in October, 2016 and they became friends. She has stated that in November 2016, the applicant visited her house and tried to make physical contact with her. She has stated that she too visited the applicant's house. According to the prosecutrix, in February, 2017, when she was alone at home, the applicant came to her house and sat close to her and confessed his love for her. She has alleged that thereafter the applicant started touching her inappropriately and had physical relations with her. She has alleged that after the said episode, within two months, the applicant got married to some other girl, pursuant to which, she went into depression. According to the prosecutrix, she disclosed to her friend, that she was regretting getting into a relationship with the applicant and was under depression and was required to be taken to the hospital for treatment. On her disclosure to her parents, the aforesaid complaint was lodged by the prosecutrix. A perusal of the history given to the doctor shows that she had consensual sexual intercourse with the applicant and thereafter went into depression as the applicant got married to some other girl.

4. Learned Counsel for the Applicant has filed an affidavit of the

applicant wherein the applicant has given an undertaking that he will not contact the prosecutrix or tamper with the witnesses. The applicant has also undertaken that he will not enter the jurisdiction of the Powai Police Station, Mumbai, where the prosecutrix is residing and that he will appear before the trial Court on each and every date. The said affidavit is taken on record and marked 'X' for identification.

5. No doubt, since the prosecutrix was a minor, consent is immaterial. However, in the peculiar facts and circumstances of the present case, the fact that investigation is complete and charge- sheet is filed and that the applicant is in custody since 2018, 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 Saturday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;

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 enter the jurisdiction of Powai Police Station, Mumbai, till the conclusion of the trial, except for the purpose of attending the police station, as mentioned in clause (ii);

v) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant/prosecutrix, witnesses or any person concerned with the case;

vi) The Applicant shall co-operate in the conduct of the trial;

vii) An undertaking to the aforesaid clauses (ii) to (vi), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

viii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

6. The Application is allowed and disposed of in above terms.

7. 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.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.