

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

BAIL APPLICATION NO.885 OF 2019

Hiraman Nanaji Pawar

.... Applicant

versus

The State of Maharashtra

.... Respondent

- Mr. Jayendra D. Khairnar, Advocate for Applicant.
- Smt. A. A. Takalkar, APP for the State / Respondent.
- Mr. K. P. Dalvi, HC 2922, Vadner Khakurdi Police Station present.

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CORAM : SARANG V. KOTWAL, J.

DATE : 23rd JULY, 2019

P.C. :

1. The applicant is seeking bail in connection with C.R. No.I-67/2018 registered with Vadner Khakurdi Police Station, District Nashik under sections 363, 366(A), 376(2)(i) of IPC and under section 4, 8 and 12 of the Protection of Children from Sexual Offences Act.

2. The applicant is arrested on 17/9/2018 and since then

he is in custody. The FIR is lodged by the mother of the prosecutrix on 18/6/2018. She has stated in her FIR that on 17/6/2018, the prosecutrix left their house at 1.00 p.m. on some pretext and thereafter she did not return. The first informant and her family members made inquiry and they came to know that prosecutrix was in love with the present applicant. Therefore, they were convinced that the applicant had induced her to leave home and he had taken her to some unknown place. On these allegations, the FIR is lodged under section 363 of IPC.

3. During the investigation, statements of various witnesses were recorded. The applicant was arrested. Thereafter, supplementary statement of the informant was recorded and other sections of IPC were added. The investigation was carried out and the chargesheet was filed. The chargesheet contains the statement of the victim recorded under section 164 of Cr.P.C. She has described the incident in detail. She has stated that she on her own had gone to Malegaon Bus Stand. She herself had contacted the applicant and had asked him to meet her. Thereafter, the

prosecutrix went to Satana Naka. The applicant met her there. Both of them went to Satana and then to Sakri. They resided in a field for a period of two weeks. After that, owner of the field did not allow them to stay there. Therefore, they stayed together in another agricultural field. She has stated that they had physical relations during their stay together. She has specifically stated that everything had happened with her consent and there was no force involved. She has specifically stated that she has no complaint whatsoever against the present applicant.

4. Heard Mr. Jayendra Khairnar, Ld. Advocate for Applicant and Smt. Takalkar, Ld. APP for the State.

5. Ld. Counsel for the applicant submitted that even on the date of incident the prosecutrix was more than 18 years of age. According to him, the victim's date of birth was 5/10/1999 and the date of alleged offence was 17/6/2018 onwards. Therefore, if the physical relations were established by the prosecutrix and the applicant, after that, no offence is made out against the present applicant. That time the prosecutrix had attained the age of

majority.

6. The claim of the applicant is supported by the investigation carried out by the Investigating Officer. The report dated 4/6/2019 to that effect is produced before me. It is taken on record. This report also supports the contention of the applicant in respect of prosecutrix's date of birth. In view of this report and in view of statement of the prosecutrix, no offence is made out against the present applicant and therefore, he deserves to be released on bail. Hence, the following order.

ORDER

- (i) The applicant is directed to be released on bail in connection with C.R. No.I-67/2018 registered with Vadner Khakurdi Police Station, District Nashik, on his executing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in like amount.
- (ii) The application is accordingly disposed of.

(SARANG V. KOTWAL, J.)