

Anand

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

**BAIL APPLICATION NO. 786 OF 2018**

Bablu Bandeshwar Mandal .Applicant

Vs.

The State of Maharashtra & anr. .Respondents

Mr. S. A. Waskar, Advocate, for the Applicant  
Mr. A. A. Palkar, APP, for the Respondent No. 1 – State  
Mr. S. Sarkar, Advocate, for the Respondent No. 2

**CORAM : REVATI MOHITE DERE, J.**

**DATE : 11.06.2019**

**P.C.**

. Heard learned counsel for the parties.

2. By this Application, the Applicant aged 19 years seeks his enlargement on bail in connection with C. R. No. 160 of 2017 registered with the Versova Police Station, Mumbai, for the alleged offence punishable under Section 376 of the Indian Penal Code and under Sections 4 & 8 of the Protection of Children from Sexual Offences Act ( for short 'POCSO' ).

3. Perused the papers. According to the prosecution, the prosecutrix has in her statement dated 26.05.2017 stated that she is about 17 years of age and that she was working as a domestic servant with a family in Mumbai. She has stated that while she was working as a domestic servant, she met the Applicant and that on 02.12.2016 when she had gone out, the Applicant pulled her aside and had physical relations with her. She has further stated that again when she had taken the dog for a walk, the Applicant had forcible sexual intercourse with her. She has stated that out of the said relationship, she became pregnant.

4. Learned APP states that a child was born from the said relationship and that the child has now been put up in adoption. He submits that the DNA Report fortifies the fact that the Applicant is the father of the child.

5. Learned counsel for the Respondent No. 2 – Complainant has filed an Affidavit of the Respondent No. 2 which is on page No. 146 of the Application. In the said Affidavit, the Respondent No. 2 has stated that she was unaware of her actual

age and therefore, had mentioned her age as 17 years. Today, learned counsel for the Respondent No. 2 has tendered a xerox copy of the Aadhar Card of the Respondent No. 2, wherein her date of birth is stated to be 05.10.1998. The same is taken on record. If the date of birth on the said Aadhar card is correct, then the Respondent No. 2 was a major at the time of the alleged offence. In the said Affidavit, the Respondent No. 2 has further stated that she wanted to marry the Applicant and that in order to convince him to marry her, she lodged the aforesaid FIR. She has stated that after the FIR was lodged, she learnt that the Applicant was married to a girl in his native place on 20.04.2017, much prior to the lodging of the FIR. She has stated that the relationship between her and the Applicant was consensual.

6. The Applicant is in custody since 26.05.2017. The Applicant is aged about 19 years of age at the relevant time. If the Aadhar Card is taken into consideration, the Complainant was an adult at the relevant time.

7. Having regard to what is stated aforesaid, the

Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

**ORDER**

(i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs. 5,000/-** with one or two sureties in the like amount;

(ii) 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 Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iii) The Applicant to cooperate with the conduct of the trial.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

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

(REVATI MOHITE DERE, J.)