

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1256 OF 2019**

Bilal Ahmed Jiyauddin Ansari	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. M. N. Sandhyanshiv for the Applicant

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

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 18th SEPTEMBER 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. I-213 of 2018 registered with the Shantinagar Police Station, Bhiwandi, District Thane, for the alleged offences punishable under Sections 376(D)(N) of the Indian Penal Code and under Sections 4, 6 and 8 of Protection of Children from Sexual Offences Act.

3 Learned counsel for the applicant seeks bail on the ground of parity. He submits that identically placed co-accused-Mohammad Arif Istiyak Ali Shah has been enlarged on bail by this Court vide order dated 22nd August 2019 passed in Criminal Bail Application No. 2006 of 2019.

4 Learned A.P.P does not dispute the same.

5 Perused the papers, in particular, the statement of the prosecutrix, aged 17 years. According to the prosecutrix, the applicant and co-accused-Mohammad Arif were staying in her neighbourhood. She has stated that about two months prior to the registration of the FIR, she had gone to purchase some articles from the applicant's shop. She has alleged that the applicant held her hand, took her to a room, showed her a knife and under a threat, had physical relations with her. She has further stated that the applicant threatened her not to disclose the said incident to any person, else, he would kill her. She has further stated that the applicant called her often and had physical relations with her. She has further stated that prior to Bakri-Id, the co-accused-Mohammad Arif also had forcible sexual intercourse with her and continued to have physical relations with her even thereafter. She has stated that later, she discovered that she was pregnant, pursuant to which, her father asked her, whose child she was bearing. According to the prosecutrix, she disclosed that the child was of the applicant and co-accused-Mohammad Arif. She has further stated that the co-accused-Mohammad Arif performed Nikah with her and left her, pursuant to which the applicant got married to her.

6 The DNA report shows that the child is neither of the applicant nor of the co-accused-Mohammad Arif. The applicant is in custody since 27th July 2018. The applicant has no antecedents.

7 Having regard to what is stated hereinabove, the application is allowed on the following terms and conditions :

ORDER

(i) The applicant be released on cash bail in the sum of Rs.10,000/-, for a period of six weeks;

(ii) The applicant shall within the said period of six weeks, furnish P.R. Bond in the sum of Rs.10,000/- with one or two sureties in the like amount;

(iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number 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;

(v) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;

(vi) The applicant shall file an undertaking with regard to clauses (iii) to (v) in the trial Court, within two weeks of his release;

(vii) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8 The application is accordingly disposed of.

9 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.