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

CRIMINAL BAIL APPLICATION NO.1298 OF 2019

Akshay Sanjay Bhosale	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Nitin Sejpal, for the Applicant.

Mr.A.R.Kapadnis, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 4th JUNE, 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-14 of 2016 registered with the Dombivali Police Station, Thane, for the alleged offences punishable under Sections 363, 376(2)(j)(n) of the Indian Penal Code; under Sections 4, 5, 6 of the Protection of Children from Sexual Offences Act and under Sections 9, 10 and 11 of the Prohibition of Child Marriage Act.

3. Perused the papers. According to the complainant, mother of the prosecutrix, she lodged the complaint/FIR as against an unknown person, as her daughter (prosecutrix) aged 17 years was missing from home from 23rd January, 2016. In the said complaint/FIR lodged on 25th January, 2016, the complainant has alleged that her daughter was kidnapped by an unknown person and hence action should be taken against the said person. The prosecutrix, around 17 years of age was found on 28th January, 2016 by 2 persons of Child Lifeline, who brought her and the applicant to the police station on 29th January, 2016. In her statement dated 29th January, 2016, the prosecutrix had stated that she knew the applicant for about 4 years and that they were in love with each other. She has stated that her father was against her talking with the applicant, as a result of which on one occasion, he had even assaulted her. She has stated that she left the house on 23rd January, 2016, on her own accord and whilst leaving the house had left a note stating that she was leaving the house on her own accord and that the parents should not worry about her and that when her life improves, she would return home. The prosecutrix statement was again recorded after two months 23rd March, 2016, in which she has reiterated that she was in love with the applicant and that she knew the applicant for about 4years and

that the same was disliked by her parents. In the said statement she had stated that she had left the house on her own accord and that she had left a note stating so. However, in her supplementary statement she has further stated that she had gone with the applicant and that the applicant had physical relations with her. She has further stated that out of the said relations she became pregnant and could not abort the child, though the applicant wanted her to abort the child. She has stated that the applicant and she got married in a temple and that she had run away from her house with the applicant on 23rd January, 2016. The photographs, which are annexed to this application show that the applicant had performed marriage with the prosecutrix, though she was a minor and that the said is against the act, which prohibits child marriage. It appears that the applicant was about 21 years and the prosecutrix was around 17 years at the time of the incident.

4. Learned Counsel for the applicant states that the applicant is ready to get married to the prosecutrix and is also ready to take care of the child.

5. No doubt, consent is immaterial, considering the fact that the prosecutrix was a minor i.e. below 18 years of age and as such *prima facie* the applicant is liable for the offences with which he is charged. However, taking into consideration the peculiar facts of this case, having regard to the fact that the applicant is in custody for the last 2 years and considering the age of the applicant, 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.15,000/- 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 trial Court as well as to the concerned Police Station, in writing;
- iii) The Applicant shall co-operate in the conduct of the trial.

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.