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

CRIMINAL BAIL APPLICATION NO.1305 OF 2019

Ramraj Palattu Vishwakarma	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr.V.K.Rathod, for the Applicant.

Mr.V.V.Gangurde, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 6th 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.211 of 2017 registered with the Sahar Police Station, Mumbai, for the alleged offences punishable under Sections 354A, 376(2)(f)(n) and 506 of the Indian Penal Code and under Sections 4, 6 and 8 of Protection of Children from Sexual Offences Act.

3. Perused the papers. The applicant is the uncle of the prosecutrix, aged 17 years. The prosecutrix was residing with the applicant and his wife for about 4 years prior to the incident. According to the prosecutrix, about 2 years prior to the incident, the applicant started misbehaving with her and started touching her inappropriately on her private part. She has alleged that sometime in March 2017, the applicant came into the room and forced himself on her and had forcible sexual relations with her. She has stated that pursuant to the said incident, she had pain in the abdomen, pursuant to which, she was taken to the Cooper Hospital for treatment. She has further stated that the doctors in the Cooper Hospital after examining her found that she was pregnant. Pursuant thereto, the prosecutrix lodged the FIR. *Prima facie*, the statement of the prosecutrix clearly shows the complicity of the applicant. In addition, the DNA report of the foetus which was later aborted also concludes that the applicant is the biological father of the child.

4. Learned Counsel for the applicant states that it is a case of consent. The question of consent does not arise, considering the fact that the prosecutrix was a minor at the time of the incident. Having regard to the

relationship between the applicant and the prosecutrix, which is of an uncle and niece, the facts clearly show that the applicant had abused and misused the trust of the prosecutrix and had taken advantage of her helplessness.

5. Having regard to the aforesaid, this is not a fit case to enlarge the applicant on bail.

6. Hence, the application for bail is rejected and disposed of as such. However, the trial of the applicant is expedited.

7. It is made clear, that the observations made herein are prima facie for deciding the aforesaid application, and the learned Judge shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.