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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1391 OF 2019

Nandu Pandharinath Muthe ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr.R.D.Suryawanshi, for the Applicant.

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

API – Joshi, Manpada Police Station, is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 25th JULY, 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–254 of 2018 registered with the Manpada Police Station, for the alleged offences punishable under Sections 376(2)(n), 313, 315, 306, 354, 323, 504, 506 r/w 34 of the Indian Penal Code and under Sections 4 and 8 of Protection of Children from Sexual Offences

Act.

3. Perused the papers. According to the prosecutrix, aged 17 years, she met the applicant, aged 21 years about 1 year prior to the lodging of the complaint. She has stated that there was a love affair between them. According to the prosecutrix, on 2nd January, 2017, the applicant took her to a building site of his friend and had physical relations with her after promising marriage, though she was not willing for the same. She has stated that the applicant had physical relations with her on several occasions after promising to marry her. According to her, she became pregnant, pursuant to which, the applicant asked her to abort the child and gave her pills for abortion, as a result of which the child was aborted. She has stated that the applicant as well as her family members were aware of their love affair. She has stated that the applicant's parents had told her that they would perform their marriage, after the applicant's two sisters were married. According to the prosecutrix, in July, 2017, the applicant took her to Matheran and again had physical relations with her, pursuant to which, she became pregnant. She has stated that as she was 7 months pregnant, the applicant took her to Ganpati Hospital, Mohanegaon. She has stated that thereafter she was

shifted to Ganpati Hospital, Banemigaon, Titwala and that a male child was born to her. She has stated that when she became conscious, she asked about the child and learnt that the applicant and his father had taken away the male child to a hillock and disposed off the same. She has alleged that the applicant again promised to marry her, however, later he did not give any response. According to the prosecutrix, on 6th May, 2018, she called the applicant and the applicant is alleged to have told her that he would not marry her and that she should not meet him again. She has stated that in the night, she went to the applicant's house and enquired about her marriage to the applicant's parents. She has alleged that the applicant's parents abused and assaulted her, pursuant to which, she took a blade which was lying on the floor and inflicted herself with the same, on her neck and hand, pursuant to which, she was taken to the hospital for medical treatment and FIR was lodged.

4. Learned APP states that the statement of the doctor of Ganpati Hospital was recorded, however, there is no record to show that any such abortion had taken place. *Prima facie*, it appears that the applicant, aged 21 years and the complainant, about 17 years were in a

relationship and that they were to get married. Whether the relations between the applicant and the complainant were consensual or not, is a matter which will be decided by the trial Court. The applicant is in custody since May, 2018. Investigation is complete and charge-sheet is filed.

5. Considering the aforesaid, 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.10,000/- with one or two sureties in the like amount;

ii) The Applicant shall attend the concerned Police Station, as and when called, till the conclusion of the trial;

iii) 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;

iv) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

v) The Applicant shall co-operate in the conduct of the trial;

vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

vii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

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.