

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1421 OF 2019**

Govindkumar Ramsevak Harijan	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms.Sejal Shah a/w. R.J.Baddam & Satish Pandey, i/b. S.R.Lex, for the Applicant.

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

PI Mr. Limkar, PSI Mr. Manoj Limkar and PSI Mr. Chikalikar, from Malvani Police Station, Mumbai, are present

CORAM : REVATI MOHITE DERE, J.
DATE : 29th AUGUST 2019

P.C. :

1 At the outset, Learned Counsel for the Applicant seeks leave to amend to delete the name of the prosecutrix from the application. Leave granted. Amendment to be carried out, forthwith.

2 Heard learned counsel for the parties.

3 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 180 of 2018 registered with the Malwani

Police Station, Mumbai, for the alleged offences punishable under Sections 363, 366, 376 of the Indian Penal Code and Sections 3 and 6 of the Protection of Children from Sexual Offences Act.

4 Perused the papers, in particular, the statement of the prosecutrix. According to the complainant (mother of the prosecutrix), the prosecutrix left home on 21/01/2018 at 8:00 p.m., to purchase some articles from the shop. The complainant has alleged that as her daughter did not return, she went to the shop and also searched for her, however, she could not be found. The complainant has further alleged that on 22/01/2018, she received a call on her mobile from the applicant, who disclosed that the prosecutrix was with her. The complainant asked the applicant to drop her daughter at home, however, he did not. Thereafter, the aforesaid complaint was lodged by the complainant.

5 A perusal of the statement of the prosecutrix shows that she knew the applicant. She has stated that the applicant disclosed that they would get married and took her to Bhiwandi and had physical relations with her, without her consent. She has stated that on 23/02/2018, she was

brought to the Malwani Police Station by Ajay Lalta Prasad, in whose room the applicant resided. She has stated that she disclosed to her mother that the applicant had physical relations with her, without her consent.

6 The history given to the doctor by the prosecutrix, reads as under :

“History narrated by victim : that she likes one boy who reside near her house, they used to like each other, 1 yr. And met each other secretly. 2 days back they run away from house and stayed at Bhivandi on rent, where they had sexual relationship, last intercourse done around 12 a.m. on 23/02/18 Manager of panipuri factory where the assailant used to work saw them at Bhivandi and informed victim's parents and they filed case against assailant on 24/02/18 at 1:30 a.m.”

7 Learned Counsel for the applicant has also shown certain photographs to show the relations between the applicant and the prosecutrix.

8 The applicant is in custody since 24/02/2018 and investigation is complete and charge-sheet is filed.

9 Considering the peculiar facts and circumstances of this case, 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 executing PR 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 on the first Saturday of every month from 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;

- (iii) The applicant shall not leave the jurisdiction of Mumbai and Thane, without permission of the Trial Court;

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

(v) 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;

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

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

(viii) 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.

10 The application is accordingly disposed of.

11 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.

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

REVATI MOHITE DERE, J.