

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1494 OF 2019**

Mangesh Vishwanath Thorat	...Applicant
Versus	
State of Maharashtra & Anr.	...Respondents

Mr. Prakash S. Jain for the Applicant

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

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 24th 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-673 of 2018 registered with the Kashimira Police Station, Thane, for the alleged offences punishable under Section 376 of the Indian Penal Code and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act.

3 Perused the papers. According to the prosecution, applicant aged 18 years, wrote his mobile number on a chit and threw the same at the

prosecutrix and told her to call him; and that she called the applicant, pursuant to which, they became friends. She has stated that the applicant had introduced her to his ex-girlfriend and that after a few days, his ex-girlfriend told the prosecutrix that the applicant would use girls and leave them and asked her to stay away from the applicant. According to the prosecutrix, she had gone with one of her friend to Bhayandar, without informing her parents, as her friend wanted to meet her boyfriend. She has stated that someone informed this to the applicant and the applicant came there and took their photographs, scolded her friend, slapped her and brought her back, on his bike. She has further alleged that the applicant told her that he would show the photographs to her parents, if she did not have physical relations with him, pursuant to which, she had physical relations with the applicant, without her consent. She has further stated that after having physical relations, the applicant told her that he will marry her. She has further stated that the applicant came home with his mother and proposed marriage, however, there was unrest and opposition in the family, pursuant to which, they left. She has further stated that when she asked the applicant about marriage, he told her that her parents were against the marriage and that she had not completed 18 years and that after

she completes 18 years, they would run away and get married. She has further stated that she was liked by the applicant's family. According to the prosecution, her father had told her to stay away from the applicant, as they were against the marriage, as they disliked the applicant. She has stated that after a few days, her father saw the applicant's message on the mobile phone, pursuant to which, he lodged the aforesaid complaint. Even in the history given to the doctor, the prosecutrix has reiterated the same.

4 Although learned counsel for the applicant states that the relations were consensual, having regard to the age of the prosecutrix, consent is immaterial. The applicant has filed an affidavit that he will not contact the complainant or any other witness or the prosecutrix and that he will attend the trial Court regularly on each and every date. The applicant is in custody since 25th October 2018. Investigation is complete and charge-sheet is filed.

5 Considering the aforesaid, the application is allowed on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 20,000/- with one or more 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 enter the jurisdiction of Kashimira Police Station, Thane, except for the purpose of attending the Police Station;
- (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 to attend the trial Court on every date of hearing, unless exempted by the trial Court;

(vii) The applicant to 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.

6 The application is accordingly disposed of.

7 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.

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

REVATI MOHITE DERE, J.