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

CRIMINAL BAIL APPLICATION NO.1658 OF 2019

Ketan Kashinath Sanas	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Irfan A. Shaikh a/w Mr.Akshay Kashid, for the Applicant.

Ms.Veera Shinde, A.P.P for the Respondent - State.

PSI – Swapnil Manjare, D.N.Nagar Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 25th 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.163 of 2019 registered with the D.N.Nagar Police Station, Mumbai, for the alleged offences punishable under Sections 376 and 420 of the Indian Penal Code and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act.

3. Learned Counsel for the applicant submits that the applicant has been falsely implicated in the aforesaid case. He submitted that the relations, between the prosecutrix and the applicant were consensual and that a perusal of the transcript, which is at Exhibit – 'G' of the application, will show that the prosecutrix was a major at the time when there were relations between the applicant and the prosecutrix. Learned Counsel relied on the Face Book messages/conversation between the prosecutrix and her friend to show that at no point of time, the applicant had promised to marry the prosecutrix. He submitted that the applicant is in custody since 18th April, 2019.

4. Learned APP opposed the application. She, however, states that charge-sheet has been filed in the said case. She further states that the DNA report is yet to be received.

5. Perused the papers. According to the prosecutrix, aged 21 years, she met the applicant, sometime when she was studying in First Year B.Com. She has stated that the applicant was in T.Y.Bcom, at the relevant time. According to the prosecutrix, their acquaintance developed into a

love affair and they started meeting each other. She has stated that in December, 2014, the applicant came to her house and confessed his love for her and had physical relations with her, without her consent. She has stated that all along the applicant had promised to marry her. She has stated that thereafter, the applicant would regularly come to her house and would have physical relations with her on the promise of marriage. She has stated that the relations continued till 2019. According to the prosecutrix, sometime in April, 2019, as she was feeling giddy and unwell, she took a pregnancy test and found that she was pregnant. She has stated that her brother, sister and brother-in-law informed the applicant's parents about her pregnancy and asked the applicant to marry the prosecutrix, however, the applicant's family refused, pursuant to which, the aforesaid complaint was lodged.

6. Learned Counsel for the Applicant has relied on screen-shot messages exchanged between the prosecutrix and another girl, with whom the applicant was in a relationship. According to the learned counsel, the prosecutrix was throughout aware of the fact that the applicant was in a relationship with another girl and had no objection to it. Learned Counsel relied on the transcript (tape recorded conversation), which is annexed as

Exhibit – 'G' to this application to show that the prosecutrix's brother had disclosed that he is ready to spend about 1 - 2 lakhs, to ensure that the applicant is implicated in a false case. Learned Counsel submitted that the recorded conversation does not in any way show that the applicant had in anyway retracted his promise to marry the prosecutrix. Whether or not the relationship were consensual or on the assurance given by the applicant to marry the prosecutrix, is a matter which will be decided by the trial Court. Investigation is complete and charge-sheet is filed.

7. Considering the aforesaid and in the peculiar facts, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be released on cash bail in the sum of Rs.20,000/-, for a period of eight weeks;
- ii) The Applicant shall within the said period of eight weeks, furnish P.R. Bond in the sum of Rs.20,000/- with one or two sureties in the like amount;
- 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.

8. The Application is allowed and disposed of in above terms.

9. 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.

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

REVATI MOHITE DERE, J.