

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL BAIL APPLICATION NO. 1679 OF 2019**

|                            |               |
|----------------------------|---------------|
| Gajanan Shantaram Pavaskar | ...Applicant  |
| Versus                     |               |
| The State of Maharashtra   | ...Respondent |

Mr. Akhilesh Upadhyay for the Applicant

Mr. P. H. Gaikwad-Patil, A.P.P for the Respondent-State

PI Mr. Nitin Tadakhe from Samtanagar Police Station, is present

**CORAM : REVATI MOHITE DERE, J.**  
**FRIDAY, 30<sup>th</sup> AUGUST 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. 659 of 2018 registered with the Samta Nagar Police Station, for the alleged offences punishable under Sections 376(N) of the Indian Penal Code and under Sections 6, 8 and 12 of the Protection of Children from Sexual Offences Act.

3            Learned counsel for the applicant submits that a false complaint has been lodged by the prosecutrix's father, at the behest of the

applicant's wife. He submits that there is not an iota of truth in the allegations of rape, alleged to have been committed by the applicant on the prosecutrix.

4            Learned A.P.P opposed the application.

5            Perused the papers, in particular, the statement of the prosecutrix, aged 16 years (in October 2018). According to the prosecutrix, the applicant was a tenant residing in a room belonging to her parents for about two years, prior to the incident. She has stated that on 16<sup>th</sup> May 2018, the applicant left the premises and moved to Malad. She has further stated that when the applicant was residing as a tenant, in September 2017, she started meeting the applicant and they became friends. She has alleged that the applicant, aged 32 years and a married man would profess his love for her and disclosed to her that he was not getting along with his wife and there used to have frequent quarrels. The applicant is also alleged to have disclosed that he would marry her. She has further stated that when the applicant's wife learnt about their friendship, there was a quarrel between

them, and the applicant left the room (house) on 29<sup>th</sup> April 2017 and started residing with her sister at Malad. She has further stated that in May 2018, she disclosed to her father (complainant) that the applicant was in love with her, however, her father reprimanded her and asked her to concentrate on her studies. She has further stated that after the applicant left the tenanted premises, he started going to her School for meeting her. According to the prosecutrix, the applicant took her to Malad, where he was staying and had physical relations with her, without her consent, on 28<sup>th</sup> May 2018 in August 2018 and September 2018. A perusal of the medical case papers of the applicant shows that in the history given to the doctor, he has stated that the relations were consensual and that there was sexual intercourse between him and the prosecutrix. Although the prosecutrix in the history given to the doctor, has not alleged force as against the applicant, the fact remains that the prosecutrix was a minor, aged 16 years and the applicant was a married man, aged 32 years. The applicant had lured the victim girl and had taken advantage of her young age and has exploited her. The possibility of tampering with the witnesses also cannot be ruled out.

6           Considering the aforesaid, this is not a fit case to enlarge the applicant on bail. The application is accordingly rejected. The trial of the applicant is, however, expedited.

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.

**REVATI MOHITE DERE, J.**