

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1723 OF 2019**

Akash Suresh Jadhav	...Applicant
Versus	
The State of Maharashtra & Anr.	...Respondents

Mr. Sushil M. Gaglani for the Applicant

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

API Mr. Ajinkya Tambade from Samta Nagar Police Station, is present

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 18th 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. 46 of 2017 registered with the Samta Nagar Police Station, for the alleged offences punishable under Sections 342, 376(1) of the Indian Penal Code and under Section 4 of the Protection of Children from Sexual Offences Act.

3 Perused the papers, in particular, the statement of the minor girl. According to the prosecutrix, who is a minor, she met the applicant in December 2015. She has stated that initially she did not like the applicant, however, later, the prosecutrix started liking the applicant, pursuant to which, there was a love affair between them. She has stated that thereafter on one occasion, the applicant took her to the house of one Asha Temkar and on the assurance that he will marry her, had physical relations with her, without her consent. She has further stated that in July 2017, she had gone for a picnic along with the applicant and friends. She has stated that when all of them were swimming, the applicant took the prosecutrix to a room and had physical relations with her. She has stated that she realized later that the applicant was taking advantage of her by professing his love for her, pursuant to which, she broke all relations with the applicant.

4 A perusal of the history given by the prosecutrix to the doctor shows that she had revealed to the doctor that the physical relations were with her consent around 4 or 5 times. She has further stated that the applicant and she had physical relations, as the applicant had promised to marry her. Since the applicant was a minor, consent is immaterial.

5 Learned A.P.P states that the prosecutrix is married and has moved to Chennai. Learned A.P.P states that the prosecutrix has lodged another complaint alleging the very same offence as against another boy by the name Rohit.

6 Learned counsel for the applicant has also tendered an affidavit of the applicant, aged 23 years, who, at the time of the incident was 20 years, stating that the applicant will not contact the prosecutrix or any witness concerned with the said case. That he will abide by all the conditions that may be imposed by this Court. The said affidavit is taken on record and marked `X' for identification. The applicant is in custody since January 2017. Investigation is complete and charge-sheet is filed.

7 Having regard to 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. 15,000/- with one or two local 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 tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) 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;

(v) The applicant to cooperate with the conduct of the trial and attend the trial Court on every date of hearing, unless exempted by the trial Court;

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

(vii) 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.

8 The application is accordingly disposed of.

9 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.

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

REVATI MOHITE DERE, J.