

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1829 OF 2019**

Jagdish Yuvraj Pawar	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms. Sandhya Mailagir I/b Mr. Anil D. Joshi for the Applicant

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

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 10th OCTOBER 2019

P.C. :

1 Learned counsel for the applicant seeks leave to amend to delete the name of the prosecutrix. Leave granted. Amendment 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. I-09 of 2019 registered with the Kopari Police Station, for the alleged offences punishable under Section 376 of the Indian Penal Code and under Sections 3, 4, 7, 8, 11 and 12 of the Protection of Children from Sexual Offences Act.

4 Perused the papers. According to the complainant/prosecutrix, aged 17 years, she met the applicant on Social Media through Facebook; that pursuant thereto, they exchanged their mobile numbers and started chatting on Whats-App; and that their friendship developed into a love affair, pursuant to which, they started meeting each other. The complainant/prosecutrix has alleged that on 20th January 2019, on the request of the applicant, she purchased a *Mangalsutra* and went to Thane to meet the applicant. The prosecutrix has stated that she informed her family that she was going to the Forest Department for training and they roamed around on Railway Station till about 11:30 a.m. on the next date i.e. 21st January 2019. She has further alleged that the applicant took her to a place near Thane Railway Station and asked her to have physical relations with her and when she refused, put the *Mangalsutra* on her and thereafter had physical relations with her. It is alleged by the prosecutrix that thereafter the applicant went home and prosecutrix went for shopping to Vashi, Navi Mumbai. It is alleged by the complainant that she met the applicant again in the evening at 5:30 p.m, at Thane Railway Station. She has alleged that at that time, the applicant told her to come to Ichalkaranji with him, however, she stated that she had pain in her abdomen. She has stated that the applicant took her to the Railway Clinic and thereafter left the said spot. Pursuant thereto, the aforesaid complaint was lodged.

5 Learned counsel for the applicant submits that the relations between the complainant/prosecutrix and the applicant were consensual. Having regard to the age of the complainant/prosecutrix, the question of consent does not arise. Learned counsel for the applicant has filed an affidavit of the applicant, wherein, the applicant has undertaken not to contact the complainant. The applicant is in custody since January 2019. Investigation is complete and charge-sheet is filed.

6 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 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 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 all the dates before the trial Court, unless exempted;

(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.

7 The application is disposed of in the aforesaid terms.

8 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.

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

REVATI MOHITE DERE, J.