

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

BAIL APPLICATION NO.1907 OF 2019

Ashish Durgesh Arjunval Applicant

versus

The State of Maharashtra Respondent

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- Mr. Chetan Mali, Advocate for the Applicant.
- Smt. A. A. Takalkar, APP for the State/Respondent.
- Mr. S. A. Chavan, PC, Alandi Police Station present.

CORAM : SARANG V. KOTWAL, J.
DATE : 22nd JULY, 2019

P.C. :

1. The applicant is seeking his release on bail in connection with C.R. No.223/2018 registered at Alandi Police Station, Pune under sections 363, 366(A), 376(2)(J)(N) of the Indian Penal Code and sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act.

2. The applicant is arrested on 13/11/2018 and since then he is in custody. The investigation is over and chargesheet is

filed. Initially, the complaint was lodged on 7/10/2018 by the father of the victim in respect of her missing from the house since 5/10/2018 in the early hours. The informant's daughter had not returned and therefore the FIR was lodged under section 363 of IPC. On 13/11/2018, the applicant was arrested. On 23/11/2018 and 18/12/2018, the statements of the victim was recorded. In these statements, the victim has mentioned that she had dispute with her father and therefore she had left their house at 23.00 hours on 4/10/2018. She went to Pune and from there she came to Thane where she met the applicant. Both of them went to Nallasopara. The applicant rented a room. Since 12/10/2018, they were residing in that room together. During that time, they had physical relations. The neighbours were told that they were married. On 12/11/2018, the applicant left the house and thereafter he did not return. The victim got panicky and made inquiry. She came to know that on the complaint lodged by her father, the applicant was arrested.

3. The supplementary statement of the first informant shows that in the past C.R. No.81/2017 was lodged against the present applicant under Section 376(2) as well as under section 6, 8 and 12 of the POCSO Act against the present applicant in relation to the same victim.

4. Heard Mr. Chetan Mali, Ld. Counsel for the applicant and Smt. Takalkar, Ld. APP for the State.

5. Ld. Counsel for the applicant submitted that the statement of the victim indicates that there was a love affair and they were residing together as husband and wife for one month. The victim has left her house on her own and there was consensual relationship. Though technically ingredients of the offence may be attracted but the prosecutrix had attained the age of understanding.

6. Ld. APP submitted that in the past also the present applicant was arrested in connection with C.R. No.81/2017

registered at Cuffe Parade Police Station for commission of the same offence concerning the same victim. He was granted bail in that offence.

7. I have considered the submissions of both sides. It is obvious that the victim was in love with the present applicant and it was at her instance that the applicant had rented a room at Nallasopara. The victim had left her house voluntarily. Thereafter, they were residing together. In the past also, the applicant was arrested on similar allegations. Thus, the relationship between the victim and the applicant was known to the family of the victim. In spite of that, the victim chose to leave her father's house and reside with the present applicant. The effect of her not attaining the 18 years of age at the time of incident will obviously be decided by the Trial Court. However, at this stage, it is clear that the applicant does not have criminal background and he has love affair with the victim. The applicant in his own wisdom or due to lack of it, tried to help the victim and therefore, at this stage I see no reason as to why he should be detained in custody any further

till conclusion of the trial. The trial is likely to take a long time to reach conclusion. Hence, the following order is passed.

ORDER

- (i) The applicant is directed to be released on bail in connection with C.R. No.223/2018 registered at Alandi Police Station, Pune, on his executing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)