

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1926 OF 2019**

Saibaj Wasim Khan	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Ram Mani Upadhyay for the Applicant

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

PSI Mr. Amit B. Patil from Kashmiri Police Station, Thane, 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. 158 of 2019 registered with the Kashmiri Police Station, Thane, for the alleged offences punishable under Sections 363 and 376 of the Indian Penal Code and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act.

3 Perused the papers, in particular, the statement of the

prosecutrix. According to the prosecutrix aged 17 years, she left her house on 9th March 2019 at about 6:30 p.m. in the evening, to bring some household items from the Grocery shop. She has stated that on the way back, she went to the house of one lady, whom she knew, as she was crying. She has stated that she stayed in her house for some time and refused to go home due to the fear that her parents would get angry. She has stated that throughout the night, she sat in a rickshaw and in the morning of 10th March 2019, she went to the applicant's house, where she had tea. She has further stated that she and the applicant went in a jungle for a walk and were roaming around till 4:30 in the evening. She has further stated that the applicant was asking her to return home, however, she refused to return home, as she feared that her parents would assault her, as she was out throughout the night. She has further stated that she asked the applicant to stay with her that night and insisted that she will not return home. She has further stated that the applicant asked her to wait in front of a closed office and he went home to give milk. She has stated that at 8:00 p.m. in the night, they slept together and that the applicant had physical relations with her, as she insisted.

4 The applicant was aged 19 years and the prosecutrix is stated to be around 17 years. The ossification report shows her age between 18 and 20 years. Whether or not the girl is a minor, is a matter which will be decided by the trial Court.

5 Having regard to the peculiar facts of the case, in particular, the statement of the prosecutrix, the application is allowed on the following terms and conditions :

ORDER

(i) The applicant be released on cash bail in the sum of Rs. 15,000/-, for a period of six weeks;

(ii) The applicant shall within the said period of six weeks, furnish P.R. Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

(iii) 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. for a

period of 12 months and thereafter, every alternate month, till the conclusion of the trial;

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) 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;

(vi) The applicant to cooperate with the conduct of the trial;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

6 The application is accordingly disposed of.

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.

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

REVATI MOHITE DERE, J.