

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2140 OF 2019**

Hibjur Sirajuddin Rahman
Versus
The State of Maharashtra

...Applicant

...Respondent

Ms. Shweta A. Singh for the Applicant

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

PSI Mr. Paradkar from Goregaon Police Station, Mumbai, is present

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 10th OCTOBER 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 2018 registered with the Goregaon Police Station, Mumbai, for the alleged offences punishable under Sections 363, 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, aged 14 years. According to the prosecutrix, she got acquainted with the applicant, aged 18 years and they started meeting each

other. She has stated that the applicant proposed to her and that she accepted his proposal. She has stated that on 13th March 2018, the applicant took her to a room at Goregaon and the applicant had physical relations with her. She has stated that she had periods, however, despite the same, the applicant had physical relations with her. She has stated that thereafter, she disclosed the incident to one of her relatives, pursuant to which, the aforesaid complaint was lodged.

4 Learned counsel for the applicant states that the medical case papers of the prosecutrix do not support the prosecution case. She submits that the applicant has been falsely implicated in the said case.

5 A perusal of the medical case papers, in particular, column (B) shows that there was no evidence of any injury. No bleeding was also noticed though the prosecutrix was allegedly menstruating.

6 Learned A.P.P does not dispute the fact that the medical case papers do not support the prosecution case of sexual assault. The applicant is in custody since March 2018. Investigation is complete and charge-sheet is filed.

7 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. 15,000/- 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 enter the jurisdiction of Goregaon Police Station, until further orders, except for the purpose of attendance;

- (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the prosecutrix, 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 and attend all the dates before the trial Court, unless exempted;

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

(viii) 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.