

Anand

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

BAIL APPLICATION NO. 2187 OF 2019

Imran Majibulla Khan

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr. Sushrut Jadhwar, Advocate, for the Applicant

Mrs. P. P. Shinde, APP, for the Respondent – State

Mr. Ravindra R. Wani, PSI, Antop Hill Police Station, Mumbai present

CORAM : REVATI MOHITE DERE, J.

DATE : 23.09.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 103 of 2019 registered with the Antop Hill Police Station, Mumbai, for the alleged offences punishable under Sections 376 & 363 of the Indian Penal Code and under Sections 4, 8 & 12 of the Protection of Children from Sexual Offences Act.

3. Perused the papers, in particular the statement of the prosecutrix, aged 16 years. According to the prosecutrix, she met the Applicant through her friend and her friend's brother and that she became friendly with the Applicant. She has stated that the Applicant

proposed marriage to her and that they started meeting frequently. She has stated that when she was staying with her friends on 23.03.2019, the Applicant also slept in the same house that night and that they had physical relations. Learned counsel for the Applicant submits that it is a case of a love affair and that the relations between the parties were consensual. He submits that a perusal of the history given by the prosecutrix to the Doctor shows that her relation with the Applicant was consensual. Having regard to the fact that the prosecutrix was a minor, the question of consent does not arise. Learned counsel for the Applicant has also tendered an Affidavit of the Applicant, wherein the Applicant has undertaken not to contact the prosecutrix or any other person concerned with the said case. The said Affidavit is taken on record. The Applicant is in custody since March, 2019. Investigation is complete and charge-sheet is filed.

4. Having regard to the peculiar facts of this case, the Application is allowed and the Applicant is enlarged on bail on the following terms & 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 local

sureties in the like amount;

(iii) The Applicant shall report to the investigating officer of the concerned police station on the **first Saturday of every month** between 10.00 a. m. and 1.00 p. m. for a period of 24 months from the date of his release;

(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 immediately after being released 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.

5. The Application is allowed in the aforesaid terms and is accordingly disposed of.

6. 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.

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

(REVATI MOHITE DERE, J.)