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

CRIMINAL BAIL APPLICATION NO.2592 OF 2019

Jitendra Kudda @Udaybhan Ahirwar	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.B.K.Manghani, for the Applicant.

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

CORAM : REVATI MOHITE DERE, J.

DATE : 3rd OCTOBER, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seek his enlargement on bail in connection with C.R.No.548 of 2017 registered with the D.N.Nagar Police Station, Mumbai, for the alleged offences punishable under Sections 363, 366A, 376(i) of the Indian Penal Code and under Sections 4, 5(L)(J) and 6 of the Protection of Children from Sexual Offences Act,.
3. Perused the papers. According to the complainant, her daughter (prosecutrix) left home on 18th September, 2017, pursuant to

which, she filed a complaint with the police under Section 363 of the Indian Penal Code. The prosecutrix returned home on 28th October, 2017, pursuant to which, her statement was recorded on 1st November, 2017. In the said statement, the prosecutrix has alleged that she was acquainted with one Harishchandra and that the said Harishchandra had promised her marriage, pursuant to which, she left her house and went with him to his native place. The prosecutrix has alleged that she had physical relations with Harishchandra on 8 to 9 occasions, after which Harishchandra deserted her. During the course of recording of the prosecutrix statement, she was asked whether she had physical relationship with any other person in the past. The prosecutrix replied that she had a relationship with one Ganesh and Jitendra (applicant). Pursuant thereto, the applicant was arrested. It appears that co-accused – Ganesh, who is similarly placed as the present applicant has been released on bail by this Court (Coram:Prakash D. Naik, J.), vide order dated 6th March, 2019. The prosecutrix in her statement has not stated that the present applicant or Ganesh had made any false promise or they forced her to have physical relations. The ossification test indicates that the prosecutrix was about 16 to 17 years. The prosecutrix's ossification test was done as there was no birth certificate to indicate her age. The applicant is in custody since November, 2017. The applicant has no antecedents. Investigation is complete and charge-sheet is filed.

4. Having regard to the fact that similarly placed co-accused – Ganesh has been enlarged on bail and in view of what is stated aforesaid, the application is allowed on the following terms and conditions:-

ORDER

- i) The Applicant be released on cash bail in the sum of Rs. 25,000/-, 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. 25,000/- with one or more sureties in the like amount;
- iii) The Applicant shall attend the concerned Police Station, on the first Saturday of every month, between 11:00 a.m. and 1:00 p.m., until further orders;
- iv) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;
- v) The Applicant shall co-operate in the conduct of the trial.

5. The Application is allowed and disposed of in above terms.
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.
7. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.