

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2477 OF 2018

Jivan Lal Chandrabhan, Age 18 years,
Occ.Labour, R/o.Village Begumpur,
Post Ramgao, Dist.Behraich, UP State.

Applicant

versus

The Senior Police Inspector, Amboli and
another

Respondents

Mr.Mateen Shaikh with Mr,.Adeeba Khan for applicant.

Mrs.G.P.Mulekar, APP, for State.

Mr.Nilesh Dhamane, PSI, Amboli Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 11th January 2019

PC :

1. The applicant is seeking bail in connection with CR No.53 of 2018 registered with Amboli Police Station for offences under Sections 376(1) and 363 of Indian Penal Code and under Sections 4, 8 and 12 of Protection of Children from Sexual Offences Act. The applicant was arrested on 16th February 2018. The FIR was lodged on 22nd January 2018 by the mother of victim u/s 363 of IPC. It is alleged that on 26th January 2018 the victim had gone to school and she did not return home. The complainant suspected that she must have been kidnapped and hence the FIR was lodged. The supplementary statement of complainant was recorded on 27th January 2018 in which she has stated that the complainant had scolded the victim as she is seen her photograph with another boy named Sandeep. The complainant went to school and reprimanded the victim not to come home. Subsequently the complainant's

statement was recorded on 19th February 2018. On 18th February 2018 the victim was traced at Begumpur in Uttar Pradesh State along with her friend (applicant herein). The victim had disclosed to the complainant that she went to Uttar Pradesh on her own and contacted the applicant on his cell phone and told him to take her with him. She also informed him that she has left her house. The accused then took her to his house at Begumpur. The statement of victim was recorded on 18th February 2018. In her statement she stated that she is in love with the applicant and she wanted to stay with him. She did not contact her parents. She also stated that she had physical relationship with the applicant. Her statement is recorded u/s 164 of Code of Criminal Procedure. The school leaving certificate of the victim shows that she is about 14 years of age whereas medical examination shows her age to be between 16 and 17 years of age.

2. Learned APP submitted that the victim was minor child at the time of incident and assuming that she had consented for physical relationship, her consent will not absolve the applicant from the offence. It is further submitted that the victim had refused to undergo medical examination with regards to her physical examination qua sexual assault. Learned APP also submits that the applicant is from Uttar Pradesh and has no place of residence at Mumbai and there is every likelihood that he may abscond. Learned counsel for applicant, on instructions, states that the applicant would stay with his brother at Thane.

3. On perusal of all the statements of the complainant and the victim it appears that the victim was acquainted with the applicant.

She was in love with him. She went to Uttar Pradesh on her own. She had called the applicant and told him to take her along with him. It also appears that she had quarrel with her mother and she left her house pursuant to that. The applicant is in custody from 16th February 2018. Investigation is completed and charge sheet is filed.

4. Considering the factual matrix of this case, bail can be granted to the applicant on certain conditions.

ORDER

- (i) Criminal Bail Application No.2477 of 2018 is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with CR No.53 of 2018 registered with Amboli Police Station, Mumbai, on his furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall not leave State of Maharashtra without permission of the Trial Court;
- (iv) The applicant shall furnish his residential address of Thane to the investigating officer after he is released on bail, and also his mobile number and/or his brother's mobile number;
- (v) The applicant shall not enter the jurisdiction of Amboli Police Station;
- (vi) The applicant shall not tamper with the evidence and shall attend the Trial Court proceedings regularly, unless exempted by the Trial Court for some reason.

(PRAKASH D. NAIK, J.)