

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

BAIL APPLICATION NO.2746 OF 2019

Digambar Ramesh Chavan

.. Applicant

Vs.

State of Maharashtra

.. Respondent

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Mr.Sachin R. Pawar, Advocate for the Applicant.

Ms.Pallavi Dabolkar, APP for the Respondent – State.

Mr.V.S. Mali (ASI) MIDC Bhosari Police Station, Pune, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : NOVEMBER 04, 2019.

P.C. :

This is an application for bail under Section 439 of Indian Penal Code (“IPC”, for short). The applicant is arrested on 22nd April, 2019 in connection with C.R.No.340 of 2019, registered with MIDC, Bhosari Police Station, Pune, for the offence punishable under Section 376 of Indian Penal Code (“IPC”, for short) and under Section 3, 4, 5(l), 6, 11(1) and 12 of The Protection of Children From Sexual Offences Act (“POCSO Act”, for short). The age of the victim at the time of incident was 17 years 7 months.

2 The First Information Report (“FIR”, for short) was lodged by the victim on 21st April, 2019, alleging that she was acquainted with the applicant. In July 2018, the victim had accompanied the applicant-accused on his two wheeler and they went to a lodge. Some substance was spiked in the soft drink which was consumed by the victim which had resulted in unconsciousness. The accused took obscene photographs. Thereafter, again on 1st August, 2018, the accused called the victim and they visited a lodge. The accused promised the victim that he would marry her and had physical relationship with her. Thereafter both of them used to chat on Facebook. The victim was in touch with the accused. In September 2018 they had physical relationship. In January 2019, the victim informed the accused that her marriage has been fixed with some person. After learning about the said fact, the accused had forwarded the obscene photographs of the victim to the person with whom the marriage of the victim was to be solemnized.

3 The statement of the victim was also recorded under Section 164(5) of Cr.P.C. Apparently, there is variation in the said statement. Although the victim has referred to the sexual relationship with accused at some places, there is no reference to

the fact that she had consumed soft drink which has resulted in unconsciousness and the fact that her obscene photos were clicked by the applicant - accused. It is also pertinent to note that the statement of the person with whom the marriage of victim was to be performed and the photographs were sent by the accused has not been recorded by the investigating machinery. Although the victim has referred to the mobile number of the person to whom the photographs were forwarded by accused, the phone of said person was not seized by the police during investigation. Learned APP, however, submitted that the cell phone of the accused was seized which contain the objectionable photographs has been forwarded for forensic examination. On perusal of the statement of the victim it appears that the victim and the accused were in relationship since July 2018. she had visited places with accused and there was sexual relationship with the accused. In view of the aforesaid circumstances, bail can be granted to the Applicant - accused.

4 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.2746 of 2019, is allowed;

- (ii) The applicant is directed to be released on bail in connection with C.R.No.340 of 2019, registered with MIDC, Bhosari Police Station, Pune, 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 attend MIDC, Bhosari Police Station, Pune, once in a month on first Saturday of the month between 10:00 a.m. to 2:00 p.m.;
- (v) The applicant shall not tamper the prosecution evidence and shall not approach the victim during the pendency of the trial;
- (vi) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)