

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

CRIMINAL BAIL APPLICATION NO.2944 OF 2019

Narayan Balaji Halkar

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr.Sachin H. Deokar, Advocate for Applicant.
- Ms.S.S. Kaushik, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 22nd OCTOBER, 2019

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.108/18 registered with Taloja Police Station, Navi Mumbai, under sections 363, 365, 376(2)(N) of the Indian Penal Code and under section 4, 5 (L) and 6 of Protection of Children from Sexual Offences Act, 2012.
2. The FIR was arrested on 17/07/2019 and since then he is in custody. Investigation is over and charge-sheet is already filed.

3. The FIR was lodged by the mother of the victim. She has stated that on 12/06/2018 she along with her mother including victim had gone to sleep in the night. When she woke up at about 04.00 a.m., the victim who was 17 years and 7 months of age, was missing. Therefore she lodged the FIR. She expressed suspicion against the Applicant. Subsequently, the victim and the Applicant were traced in July 2017. The victim's statement was recorded on 17/07/2018. She has clearly stated in her statement that she was aware that the Applicant was married, but they developed love relationship and they decided to elope. The Applicant had suggested that they could get married. The victim accepted his proposal. They went to Rohinjan, then to Panvel and then to Kolhapur. Thereafter they went towards Karnataka. The Applicant took up a job involving labour work. The prosecutrix and the Applicant stayed together for about a month. In the meantime, they had their physical relations. The Applicant had informed his cousin and uncle that they were at village Dhupdal, District Belgaon. After a few days,

the police from Taloja Police Station came there and took the Applicant in custody. The victim's statement was recorded u/s 164 of Cr.P.C., where she has narrated the same incident except that they had their physical relations, but she has accepted that she had resided together with the Applicant for about a month.

4. Heard learned Counsel Mr.Sachin H. Deokar for the Applicant and learned APP Ms.S.S. Kaushik for the State.
5. Learned APP Ms.Kaushik submits that the copy of the application was given only in Court. Investigating Officer is not present. She however opposed the application as the Applicant was already married.
6. Learned Counsel for the Applicant submits that the victim was almost 18 years of age and though technically, offence is made out, no further purpose will be served by keeping the Applicant in custody. He is already in custody since 17/07/2018.

7. I have considered these submissions. The charge-sheet is filed. I have perused it. The statement of victim clearly shows that there was a love affair. The victim had almost attained age of 18 years. She willingly and knowingly left her house to go with the Applicant. They resided together as husband and wife in Karnataka. The Applicant was earning his livelihood by doing labour work and was maintaining the victim. Considering all these circumstances, though the prosecution can go on, no purpose will be served by keeping the Applicant in custody. The Applicant does not have criminal antecedents and the act appears to be consensual, though technically the consent would not matter as the victim was below 18 years of age. Considering over all circumstances, I am inclined to grant bail to the Applicant. Hence, the following order :

ORDER

- (i) The Applicant is directed to be released on bail in connection with C.R.No.108/18 registered

with Taloja Police Station, Navi Mumbai, on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)