

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3295 OF 2019

Azhar Rafik Pathan

Applicant

versus

The State of Maharashtra

Respondent

Mr.Satyaram R. Gaud for applicant.

Smt.Veena Shinde, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 18th December 2019

PC :

1. The applicant was arrested on 2nd April 2019 in CR No.92 of 2019 registered with Junnar Police Station, for offences under Sections 376, 504, 506 of Indian Penal Code and under Sections 4,6,8 and 12 of Protection of Children from Sexual Offences Act, 2012. On completing investigation charge sheet is filed.

2. The prosecution case in short is that the complainant was 17 years old at the time of lodging the complaint. She was in friendship with the applicant since 2017 till 1st April 2019. The applicant allegedly clicked her photographs and threatened her that the photographs will be made viral. It is alleged that one of the photo by covering her face was displayed on status of whats app by the applicant. The said photograph was noticed by relative of the victim, who informed the father of victim. On questioning the victim she had narrated the incident and thereafter the complaint was lodged.

3. Learned counsel for applicant submitted that the allegations made in the FIR itself would indicate that the victim and the

applicant were acquainted with each other and were in relationship with each other. She had volunteered to accompany the applicant at various places where physical relationship was established. The applicant is ready to abide by any condition in the event bail is granted to him. The applicant is 22 years of age. Although the victim was minor, she was of the age of understanding.

4. Learned APP submitted that the victim has attributed specific overt act to the applicant. She was minor at the time of incident. Assuming that she had consented, such consent is not legally admissible. The applicant had clicked her photos and threatened her that the same would be made viral. There is threat to the victim. It is also submitted that medical evidence supports the version of victim.

5. I have perused the FIR. The grievance of the victim is that she was acquainted with the applicant since 2017. They were friendly. The accused had clicked her photographs. The FIR also does not specifically mention that the photographs were objectionable or obscene. She was taken to lodge on 4 to 5 occasions and there was physical relationship between them. She was threatened not to disclose about the same to any person. Even thereafter the accused had physical relationship with the victim. Subsequently noticing the photograph of the victim on whats app status of the accused, the information was given by the relative of the applicant to the father of victim, who questioned her and thereafter the FIR was lodged. The examination of victim indicate old injuries. The medical test conduct of the victim which indicate that the age of victim is more than 17 years but less than 19 years. There are no criminal antecedents

against applicant. Considering the circumstances, bail can be granted to the applicant.

6. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.3295 of 2019 is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.92 of 2019 registered with Junnar Police Station, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall not approach the victim and shall not enter the vicinity where the victim resides or place of her residence;
- (iv) The applicant shall report Junnar Police Station once in a month on every first Saturday between 10 am and 12 noon till further orders;
- (v) The applicant shall not tamper with evidence and shall attend Trial Court proceedings regularly, unless exempted by the Trial Court for some reason.

(PRAKASH D. NAIK, J.)

MST