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

CRIMINAL BAIL APPLICATION NO.3287 OF 2018

Mastan Ali Abdul Salim Shaikh @Aayan	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms.Sartaj Shaikh, for the Applicant.

Mr.V.V.Gangurde, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 6th JUNE, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.273 of 2018 registered with the Dharavi Police Station, Mumbai, for the alleged offences punishable under Section 376 of the Indian Penal Code and under Sections 4, 8 and 12 of Protection of Children from Sexual Offences Act.
3. Perused the papers. According to the prosecutrix, she got

acquainted with the applicant, when the applicant sent her a Whatsapp message. She has stated that thereafter there were Whatsapp chats between her and the applicant and as such they became friends and would talk frequently on phone. She has stated that the applicant had visited the hospital to see her sister, when she was in the hospital. She has stated that the applicant also met her mother and disclosed that he wanted to get married to her (prosecutrix). She has stated that in January, 2018, when she was alone at home, the applicant had physical relations with her, against her wish. She has stated that thereafter on a couple of occasions, they had physical relations, pursuant to which, she became pregnant. On being taken to the hospital, the prosecutrix was detected to be pregnant. It appears that the child was aborted.

4. Learned Counsel for the applicant relied on the history given by the prosecutrix to the doctor when she was examined on 2nd July, 2018.

A perusal of the history as narrated by the prosecutrix reads as under:-

“History as narrated by alleged victim Muskan is that she was in a love relationship with her boyfriend since many months. During this period she had a penovaginal sexual intercourse with her boyfriend, consensual without the use of contraception. Her parents were unaware of her love relationship. Last episode of sexual intercourse cannot be remembered by victim.”

5. It appears that thereafter on 6th July, 2018, the prosecutrix lodged an FIR, as against the applicant. At the time of sexual assault, which took place in January/February, 2018, the prosecutrix was about 17 years 7 months of age and about 18 years, when the FIR was lodged. The applicant has no antecedents.

6. Considering the peculiar facts and circumstances of this case, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Monday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- iii) The Applicant shall inform his latest place of residence and

mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

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 not enter the jurisdiction of Dharavi Police Station, Mumbai, till the conclusion of the trial, except for the purpose of attending the police station as per clause (ii);

vi) The Applicant shall co-operate in the conduct of the trial;

vii) An undertaking to the aforesaid clauses (ii) to (vi), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

viii) It is made clear, that if there is breach of any of the conditions as

stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

7. The Application is allowed and disposed of in above terms.

8. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.