

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

CRIMINAL BAIL APPLICATION NO. 3302 OF 2018

Pushparaj Simon		
Age 23 years, Occ. Service,		
Residing at Faujudhin Chawl,		
Ganesh Chowk, Gaodevi Road, Poisar,		
Borivali (W), Mumbai - 400 092	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

- Adv.Roseline Nadar for the Applicant.
- Adv.Kalpana Trivedi for the Intervenor.
- Adv.A.A. Takalkar, APP for the Respondent-State.
- Mr.Ravindra Avhad, PSI, Borivali Police Station.

CORAM : PRAKASH D. NAIK, J.

DATE : 13th FEBRUARY, 2019.

P.C. :

1] The Applicant is seeking bail in C.R. No.513 of 2018 registered with Borivali Police Station for the offence punishable under Section 376 of the Indian Penal Code [*for short, "IPC"*] and Section 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 [*for short, "POSCO Act"*].

2] The First Investigation Report [*for short, "FIR"*] was lodged by the mother of the victim. The victim was aged about 17 years at the time of incident. The case of the Prosecution is that the

Accused was known to the family of the complainant and had committed sexual intercourse with the victim. Subsequently, it was noticed that the victim had conceived and had delivered a child.

3] Learned APP pointed out the report submitted by the District Child Protection Officer, Tirunelveli, stating that the child delivered by the victim was conceived within the State of Maharashtra and thereafter, the victim stayed in Tirunelveli District. The child was monitored continuously by the District Child Protection Unit, Tirunelveli and then she delivered the child on 02/11/2017.

4] The report further mentions that the victim child had surrendered the baby before the Child Welfare Committee. Then the child was given under the custody of St. Joseph's Charity Institute, Tuticorin, which was legally adopted by Prospective Adoptive Parents under the direction of Central Adoption Resource Agency (CARA).

5] Learned counsel for the Applicant submits that the Applicant is willing to marry the victim after she attains majority. The Applicant has filed Affidavit-cum-undertaking executed before the Jail Authority on 25/09/2018 and it has been tendered in this proceeding. In the said Affidavit, it is stated that the victim is related to the Applicant. He undertook to marry the victim as soon as she attains majority.

6] Learned APP submits that the FIR was lodged at Tirunelveli before the victim had delivered the child on 24/09/2017 and thereafter, it was transferred to Borivali Police Station. The mother of the victim has also filed Affidavit supporting the Applicant. Both the Affidavits are taken on record.

7] The mother of the victim is present in the Court. She has been identified by the learned counsel representing the victim. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.3302 of 2018 is allowed and disposed off;
- (ii) The Applicant is directed to be released on bail in connection with CR No.513 of 2018 registered with Borivali Police Station, on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The Applicant shall report Borivali Police Station once in a month on every first Saturday between 11 am and 1 pm till further orders.

[PRAKASH D. NAIK, J.]