

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

CRIMINAL BAIL APPLICATION NO.2442 OF 2019

Adam Mehbub Pathan

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Shailesh D. Chavan, for the applicant.

Mr. A. A. Takalkar, APP for the Respondent- State.

CORAM : PRAKASH D. NAIK, J.

DATE : 07th January, 2020

P.C.:

1. The applicant is seeking bail in connection with C.R.No.40 of 2019, registered with Satara Taluka, Police Station. The First Information Report was lodged on 11th February 2019, under Section 363 of the Indian Penal Code ('IPC' for short). Charge sheet was filed for offences punishable under Sections 363, 366 and 376 of the IPC and Sections 3 and 4 of Protection of Children From Sexual Offences ('POCSO' for short) Act.

2. The First Information Report ('FIR' for short) was lodged by uncle of the victim on 11th February 2019. Victim was missing from house on 11th February 2019. Subsequently, the victim who is aged

about 16 year and 5 months was traced at Javkheda, Taluka Pathardi District- Ahmednagar. Police took her custody and brought her to Satara. The victim then narrated the incident to the complainant. She stated that, the applicant was working as labour in sugar cane cutting near house of the victim. He was visiting their house. In April 2018, the accused told her that he has liking for her and he loves her. He used to call her on cell phone. When she avoided him, the accused threatened that, he would commit suicide. On 04th January 2019, the accused visited house, when others were not at home. He had forcible sexual intercourse with victim. He threatened her not to inform about it to any other person. She further disclosed that on 10th February 2019. The applicant gave call to victim and told her to come to Ahmednagar. He would marry her. The victim left house. She met the applicant. She went to Pune. Both went to house of the applicant's sister at Javkheda, Pathardi District- Ahmednagar and she stayed there. The statement of the victim was recorded. She narrated the aforesaid incident.

3. Learned counsel for the applicant submitted that, although the victim was minor on the date of incident, the victim had stated that she had accompanied the applicant. The statement of friend of the victim was recorded on 11th February 2019. In the said statement it is stated that, the victim used to talk on phone with some boy in

school and residence. Victim had disclosed to the witness that she knows the applicant and he had stated that he would marry victim. Learned APP submitted that, the victim was minor at the time of incident. The consent is immaterial.

4. The victim was aged about 16 year 5 months. The victim and the applicant were acquainted with each other. She was missing from the house on 11th February 2019. The alleged incident of sexual assault had occurred on 04th January 2019. Even thereafter, the victim had accompanied the applicant to Pathardi. She had not made any complaint in respect to previous incident. The relationship was apparently consensual. She was traced at Pathardi, in the house of applicant's sister. Although the victim is minor, she is of age of understanding. The applicant is in custody from 12th February 2019. The charge sheet is filed. Case for grant of bail is made out.

ORDER

- (i) Bail Application No. 2442 of 2019 is allowed.
- (ii) The applicant is directed to be released on bail in connection with C.R.No.40 of 2019, registered with Satara Taluka, 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 concerned police station once in a month on every first Saturday between 10:00 a.m. to 12:00 noon till further order.

(PRAKASH D. NAIK, J.)