

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

CRIMINAL BAIL APPLICATION NO. 2318 OF 2019

Javed Abdul Rehman Golandaz

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr. Ghansham Jadhav i/b Biju A. Aloor, Advocate for the Applicant.
Smt. A. A. Takalkar, APP for the State-Respondent.

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CORAM : PRAKASH D. NAIK, J.

DATE : 27th January, 2020

PC :

1. This is an application for bail in connection with C.R. No. 89 of 2019 registered with Yerwada Police Station, Pune on 6th February, 2019 for offences punishable under Section 376, 354(a), 354(c), 506 of Indian Penal Code. The applicant was arrested on 6th February, 2019.

2. The case of the prosecution is that the victim is girl aged about 19 year. The accused is neighbour of the victim. The daughter of the accused is friend of the victim. The victim took cell phone number of the accused from his daughter and sent whats app messages to him. The accused enquired as to whose number it is. The victim disclosed her identity. Thereafter, they had talk on several occasion. On 31st December, 2018 she was called by the accused behind their house

however, she did not go. On 8th January, 2018, she met the accused. The accused had visited the house of the victim and subjected her to sexual intercourse. The accused threatened her. On 25th January, 2019 the victim had visited uncle's house. The victim's uncle noticed messages on whats app of the victim and inquired about person from whome she had received the messages. The victim disclosed the incident to her uncle. Both of them went to Police Station and complaint was lodged on 6th February, 2019. The victim was medically examined. History was recorded. The applicant was arrested. Investigation proceeded. The statement of the victim was recorded under Section 164 of Cr. P.C.

3. Learned counsel for the applicant submits that cell phone number of the applicant was obtained by the victim herself. The victim had sent first message to applicant. Although there is age difference between both, the relationship was consensual. The history recorded from the medical examination of the victim discloses that the relationship is consensual. The version of the victim is improvised in the supplementary statement and the statement under Section 164 Cr.P.C. The applicant is in custody for a period about one year. There are no criminal antecedents against him. The applicant is willing to stay out of jurisdiction of concerned Police Station.

4. Learned APP submits that the applicant should have realized the situation being a senior to the victim. In the FIR the victim has alleged that accused had forcible sexual relationship with her. In supplementary statement victim has stated that the accused had also clicked her photographs. Statement under Section 164 of Cr.P.C. attributes alleged act to the applicant.

5. Perused the FIR, and other documents. Undisputedly, text messages were exchanged by the applicant and the victim. The complaint was lodged after the uncle of victim had noticed messages in the cell phone of the victim. The victim was allegedly subjected to sexual assault in her house and neighbours house. In the history provided by the victim it is stated that she was knowing the accused. She knew that the accused is a married person. The victim was in love with the accused. There was had penetrative sexual intercourse with accused. Victim's uncle came to know about the relationship and filed complaint. The allegations that the accused had clicked photographs was disclosed in the supplementary statement and statement under Section 164 of Cr.P.C. dated 16th February, 2019. The applicant is in custody for more than a year. On certain terms and conditions he can be released on bail.

6. Hence, I pass the following order.

ORDER

- i) Bail Application No.2318 of 2019 is allowed;
- ii) The applicant is directed to be released on bail in connection with C.R. No. 89 of 2019 registered with Yerwada Police Station, Pune 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 stay out of jurisdiction of Yerwada Police Station, Pune till conclusion of trial and shall not approach the victim or her family members.
- iv) The applicant shall furnish the details of his residence after he is released on bail to the Investigating Officer.
- v) The applicant shall attend Trial Court regularly on the date of hearing of the case unless exempted by the Court.
- vi) Leave to amend. Amendment be carried out forthwith.
- vii) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)