

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2523 OF 2019

Bipin Udaypratap Pal

....Applicant

v/s.

The State of Maharashtra

....Respondent

Mr. Shyam Rishi Pathak i/by. Mr. S.C. Pal,
Advocate for the applicant.

Ms. P.P. Shinde, APP for the State.

API, Mr. D.J. Gawit, MIDC Police Station present.

CORAM : SANDEEP K. SHINDE, J.

Monday, 3rd February, 2020.

P.C. :

1. Heard.

2. The applicant seeks his enlargement on bail in Crime No. 456/2018 registered with MIDC Police Station for the offences punishable under Sections 376, 506 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act.

3. When the alleged incident had taken place, the victim was 16 years old, tenth standard student, whereas, the applicant was 22 years old. Though, victim was allegedly subjected to penetrative sexual assault by the applicant in April-May, 2018 she narrated the incident to her mother in September, 2018 and soon thereafter, the applicant came to be arrested. Though, it is alleged, victim was impregnated as a result of potential sexual assault, the result of DNA report shows applicant is "excluded to be the biological father of male child delivered" by the victim. Report is taken on record and marked 'X-1' for identification. I have perused the final report. Having regard to the age of the victim and the evidence on record, prima-facie, it appears, the victim had a capacity to know full import of what she was doing and further, prima-facie, it appears, with reasoned choice she voluntarily went to the house of the accused. Though, it is alleged that the applicant had threatened to make her obscene picture, viral on the social media platform, no evidence has been brought on record in support of this allegation. Applicant, a

student is in custody since October, 2018. The trial in the case is not likely to commence and conclude in the near future. In view of the evidence on record, DNA report and the age of the applicant, in my view, if released, his presence in the trial can be secured by imposing the conditions. The applicant arrested in Crime No. 456/2018 registered with MIDC Police Station is directed to be released on bail on furnishing P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or two sureties in the like sum.

5. The applicant shall report to the Investigating Officer on Monday second week of each month commencing from February, 2020 between 11 to 1 p.m. till the charge is framed.

6. The applicant shall furnish the particulars of his place of residence and contact details to the Investigating Officer of the Police Station concerned within seven days from his release.

7. The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

8. It is made clear that observations made hereinabove shall be construed as expression of opinion only for the purpose of refusal to grant bail and the same shall not in any way influence the trial in other proceedings.

9. Request for cash bail is rejected.

(SANDEEP K. SHINDE, J.)