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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1837 OF 2021

Jaysing Jagannath Mane	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

Mr. Anand Patil for the Applicant.

Mr. H.J.Dedhia, A.P.P for the Respondent-State.

Mr. S.S.Kamble for the Respondent No.2.

CORAM : REVATI MOHITE DERE, J.
DATE : 7th OCTOBER, 2021

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. 161 of 2020 registered with the Hatkanangale Police Station, District Kolhapur, for the alleged offences punishable under Sections 188, 363, 366-A, 376 of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act.

3. Learned Counsel for the applicant submits that the prosecutrix, 14 years and 6 months, had gone with the applicant on her own accord and therefore, Section 363 will not apply. He further submits that no offence of 376 is also committed by the applicant, since the medical case papers of the prosecutrix are not part of the chargesheet. The learned APP has produced the medical case papers of the prosecutrix, during the course of the arguments.

4. A perusal of the 164 statement of the prosecutrix, aged 14 years, 6 months, *prima facie*, shows the complicity of the applicant. It appears that the applicant, aged 32 years, was working as a driver on a tempo, which was sometimes used by the prosecutrix's father. She has stated that as the tempo was used by her father, she knew the applicant. She has further stated that the applicant would call her on her mobile and threaten to kidnap her brother and kill her father; that on 20th April, 2020, the applicant called her on her mobile and told her that her father was unwell, and had called her to the hospital. The applicant is also alleged to have told the prosecutrix not to disclose the same to her grand-mother and asked her to carry her Aadhar Card with her. Pursuant thereto, the prosecutrix accompanied the applicant to go to the doctor. The prosecutrix has further stated that on the way, the applicant forced her to call her father

and disclose to him that she was married to the applicant and that they should not search for her. She has stated that at the point of knife, the applicant threatened her to tell her father the aforesaid. She has further stated that the applicant threw the SIM card from her mobile and took her to various places, where he sexually assaulted her. She has further stated that on 26th April, 2020, when she found an opportunity, she informed the Sarpanch of the village and asked him to call the police. The said statement of the prosecutrix is consistent with the history given by her to the doctor when she was medically examined. The prosecutrix has also stated that the applicant had threatened her with knife. In the medical case papers, the prosecutrix's age is stated to be 14 years. Certain injuries were also seen on the person of the prosecutrix.

5. Considering the aforesaid, this is not a fit case to enlarge the applicant on bail. In the facts, the possibility that the applicant will threaten and intimidate the prosecutrix and her family members, cannot be ruled out.

6. Accordingly, the bail application is rejected.

7. It is made clear that the observations made herein are *prima*

facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.