

(2014) 05 BOM CK 0094

In the Bombay High Court

Case No : Criminal Bail Application No. 794 of 2014

Maresh Bhimraj Jadhav

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 07-05-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 376

Protection of Children from Sexual Offences Act, 2012 — Section 4, 5(J)(2), 6

Citation : (2015) ALLMR(Cri) 250 : (2014) 3 BomCR(Cri) 316

Hon'ble Judges : Revati Mohite Dere, J

Bench : Single Bench

Advocate : Ramesh Jadhav, Advocate for the Appellant; A.S. Shitole, APP, Advocate for the Respondent

Final Decision : Allowed

Judgement

Revati Mohite Dere, J.—Heard learned Counsel for the applicant and learned APP for the respondent-State. By this application, the Applicant seeks his enlargement on bail in connection with C.R. No. 109 of 2014 registered with the Pant Nagar Police Station, Mumbai, for the alleged offences punishable u/s 376 of the Indian Penal Code and sections 4, 5(J)(2), 6 of the Protection of Children from Sexual Offences Act, 2012.

2. The prosecutrix at the relevant time was more than 17 years of age and was studying in the 10th standard, in a School at Ghatkopar (West), Mumbai. The present applicant was a student of FYBA and was also studying at the relevant time. It is alleged by the prosecutrix that they both got acquainted with each other and their friendship developed into a love affair. She has further alleged that both of them would meet each other, at the Anubhav Computer Classes at Ghatkopar (West), Mumbai. She has alleged that in the month of November, 2013, the applicant told her, that as it was his birthday, he would take her to Titwala for celebrating the same. She has alleged that the applicant took her to a lodge instead of a hotel and committed forcible sexual intercourse with her,

against her wish. She has alleged that the present applicant promised to marry her and on the assurance of marriage again committed sexual intercourse with the prosecutrix. She has stated that thereafter the applicant, time and again came to meet her at the Computer Classes, however, as the applicant did not allow the prosecutrix to speak to her friends, she started avoiding him. She has alleged that the applicant made several attempts to talk to her, however she avoided him. She has alleged that some time in February, 2014, she missed her menstrual cycle, but she did not disclose the same to her mother, as she was afraid. She has stated that about 8 days prior to the registration of the complaint, as she had started vomiting, her mother took her to the Rajawadi Hospital on 19th March, 2014, where the Doctors on examination disclosed that she was 4 1/2 months pregnant. Pursuant to the said disclosure, the prosecutrix lodged a complaint with the Pant Nagar Police Station, Ghatkopar, Mumbai on 19th March, 2014 and the present applicant came to be arrested in the said case.

3. Learned Counsel for the applicant contended that the prosecutrix had gone with the applicant on her own accord and if at all, it is a case of consensual sex. He contended that the applicant is a student, studying in FYBA and has been in custody since the date of his arrest and sought release of the applicant on bail.

4. Learned APP has opposed the present bail application. He contended that the consent is immaterial, considering the age of the prosecutrix.

5. Be that as it may, considering the peculiar facts of this case and the fact that the charge-sheet has been filed and more particularly the statement of the prosecutrix and the fact that the applicant has been in custody since the date of his arrest, the applicant be enlarged on bail on the following terms and conditions:

ORDER

i) The applicant-Mahesh Bhimraj Jadhav, be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

ii) The applicant shall attend the Pant Nagar Police Station, Ghatkopar, Mumbai, on first Sunday of every month between 10.00 a.m. to 11.00 a.m., till the conclusion of the trial;

iii) The applicant shall co-operate with the conduct of the trial and shall not tamper or attempt to influence the prosecutrix or any persons concerned with the case

iv) It is made clear that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of applicant's bail.

6. The application is allowed and disposed of in above terms.

7. Needless to observe that the learned Judge shall decide the case on its own merits uninfluenced by the observations made in this order. Parties to act upon the authenticated copy of the order.