

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2615 OF 2014

Satyajeet @ Vicky Anilkumar Kharat. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Ram Mani Upadhyay, advocate for Applicant.

Mr. Manoj Singh, advocate for original complainant.

Ms. R.V. Newton, APP for State.

CORAM : SMT.SADHANA S. JADHAV,J
DATE : DECEMBER 22, 2014

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal
Procedure, 1973. The applicant herein is arrested on 6/11/2014 in
Crime No. 308 of 2014 registered at Narmal Nagar Police Station for
offence punishable under Section 376, 420, 406, 313, 323, 504 of the
Indian Penal Code.

3 The complainant in the said case is present before the Court. She is duly represented by an advocate. In the interest of justice, the learned Counsel and the complainant have been heard by this Court. The learned Counsel appearing for the complainant submits that the complainant has no objections for grant of bail to the present applicant as the said offence is registered due to some misunderstanding between the applicant and the complainant. The complainant has filed affidavit. The same is taken on record and marked as article "X" for identification.

4 In fact, the offence under section 376 of the Indian Penal Code is not compoundable and it is an offence against the State. However, the factual aspect in the present case need to be taken into consideration which are as follows :

On 6/10/2014 the complainant herein approached the Senior Police Inspector of Sangvi Police Station at Pune alleging therein that she had met the present applicant on the face book on 10/6/2014. They used to do chatting on the social net working. He had called her to meet her at Mumbai. She went to Bandra to meet the applicant. Thereafter, they were in touch with each other. They had developed

love with each other. He used to call her to Mumbai to meet him quite often and she used to oblige. They had sexual relations with each other on several occasions. He had assured that he would get married to her and therefore, she had no objection to have sexual relations with him. She had conceived pregnancy. She was induced to undergo medical termination of pregnancy. The abortion was against her wish. He has started visiting her at her house. However, thereafter he had started suspecting her chastity. He had also assaulted her on a few occasions. That he is an alcoholic. He is an addict and is continuously under the influence of drug. He is unemployed. He had taken money from her as well as her mother and has specifically evaded to marry her. On the date of lodging of the report, she had again conceived pregnancy. She was insisting upon him to marry with her. She had requested the police to take an undertaking from him that he would marry her and would take care of her. The copy was received by the police.

5 On 13/10/2014, the complainant had approached the police station and had given it in writing that she had initially lodged a report against the applicant. However, after lodging of the report, the

applicant has agreed to marry her and has taken her responsibility. She further reiterated that she has attained majority and understands the consequences of her act. She wanted to marry the applicant. It was also stated that in the eventuality that they do not get married, the family members should not be blamed for the same. She had requested the police not to proceed with the investigation in the letter dated 6/10/2014 and close the file forever. Hence, the officer had not registered an offence against the present applicant.

6 On 24/7/2014 present applicant is alleged to have made a document in favour of the complainant stating therein that he loves her and in case, anything goes wrong with him his property shall be transferred in the name of the complainant.

7 On 4/11/2014 the complainant again approached Sangvi Police Station and lodged a report reiterating the allegations made in the application dated 6/10/2014. She has alleged that he had taken golden ring and was not returning the same. That he had forced her to undergo abortion on 11/8/2014. She has reiterated that he had sexual relations with her in the pretext of marriage. The said report

was transferred to Nirmal Nagar Police Station as she had shown the places of incidents from the jurisdiction of Nirmal Nagar area. Hence, the applicant is arrested on 6/11/2014 and today the complainant is again before the court.

8 The applicant herein is charge-sheeted under Section 302 of the Indian Penal Code and is on bail. The complainant who is present in the court submits that she is aware of said registration of offence against the applicant and that according to her, he is falsely implicated. It is sorry state of affairs that when love affair was going on the complainant had lodged report and compromised it within 3 days. She had undertaken the same exercise within one month from 16/10/2014. Taking into consideration the fact that the complainant had stated on affidavit that she has attained majority and is free to take her own decision and understands consequences of her actions, the applicant cannot be held responsible for an offence under Section 376 of the Indian Penal Code. However, it is sorry state of affairs that the valuable time of the police department is wasted in conducting the investigation into the case which arises from the personal disputes as the present one.

9 This Court has not permitted the complainant to compound the offence with the applicant and neither the applicant is to be enlarged on bail because the complainant prays for it. But taking into consideration the conduct of the complainant that she has initiated prosecution, withdrawn the same in respect of the serious charges like Section 376 of the Indian Penal Code and has repeatedly approached the police station, this Court is inclined to grant bail.

10 This Court cannot find fault with the observations of the learned Sessions Judge who had interviewed the complainant in person after she had file an affidavit withdrawing her complaint. Learned Sessions Judge has specifically asked the reasons for filing the FIR and there was no reply from the complainant. The learned Sessions Judge had drawn an inference that the possibility that the complaint is being withdrawn under pressure or coercion cannot be ruled out. Hence, no fault can be found with the order of the learned Sessions Judge.

11 The applicant deserves bail as he has been forgiven by the complainant. However, this aspect shall not be taken into

consideration for quashing of FIR under Section 482 of the Code of Criminal Procedure, 1973, discharge application or at the time of trial.

12 Hence the following order :

ORDER

- (i) The application is allowed.
- (ii) The applicant herein be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.
- (iii) The applicant shall not tamper with the evidence.

13 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)