

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 122 OF 2015

Nagesh Popat Gawade

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Ms. Savita A. Prabhune for Applicant

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

S. M. Shinde, A.S.I. Alibaug Police Station

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : JANUARY 19, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 29/06/2014 in crime no. 77 of 2014 registered at Alibaug Police Station for offences punishable under sections 376, 354)(A)(B)(D), 420, 417, 323 & 506 (2) of Indian Penal Code and section 66 A(a)(e) & 67 (A) of The Information Technology Act. Investigation is completed and charge-sheet is filed on 13/09/2014.

2) It is the case of prosecution that prosecutrix had got selected as Police Sepoy. That she was sent to Nagpur for PTS training. On 28/06/2014, prosecutrix lodged a report at the police station that when she had gone for training to Nagpur, she had met present applicant, who had also come for

police training as Police Sepoy. That their acquaintance had culminated into love. They had met each other quite often. That applicant is alleged to have had sexual relations with her. It is alleged that applicant had promised to marry her and therefore, she had consensual sex with present applicant. It is also alleged that on pretext of illness of his mother, applicant had borrowed hand loan from prosecutrix. There was a proposal for marriage. Applicant was insisting upon getting married to the prosecutrix. Applicant had been to the native village of the prosecutrix at Satara. He had met her father at Satara S.T. stand. He had raised a quarrel, insisting upon her to get married. She had reported the said incident to the police station of Satara City, wherein, N.C. no. 88/2014 was registered against the applicant. She had also complained to the Superintendent of Police about the conduct of the present applicant. She has further alleged that by taking disadvantage of her loneliness, applicant had taken obscene video clipping of the prosecutrix and had circulated the same. She has concluded the report by saying that applicant was previously married and in spite of it, he had assured her of her marriage and had induced her to have consensual sex with him.

3) In the F.I.R., she has alleged that one police constable Waghate had

informed her at one point of time that he had seen the obscene messages of the prosecutrix of a video clipping. According to her, the said clipping was shown to her in February 2013. She was apprehending that she would be blackmailed, and therefore, she had complained about the same to the superior officers on 03/10/2013 and had also lodged a report at Alibaug Police Station, on the basis of which N.C. No. 2/2014 was registered.

4) Investigation is completed and charge-sheet is filed. Investigating officer has recorded the statement of police personnel Vishal Waghate. He has disclosed to the police that it was the prosecutrix who had informed him firstly that applicant has taken obscene images of her. She was insisting upon him to view the same as she had downloaded it. She was seeking directions from him to initiate prosecution against present applicant.

5) It prima facie appears that there had been consensual sex between applicant and prosecutrix for a considerable period of time. Applicant was also insisting upon her to get married. There is no plausible explanation for the inordinate delay in initiating prosecution. Applicant has been suspended from services. The Departmental Enquiry is in progress.

6) Learned counsel for the applicant submits that it is necessary for the

applicant to participate in the Departmental Enquiry and to substantiate his innocence.

7) Taking into consideration the fact that investigation is completed and charge-sheet is filed, this Court is inclined to grant bail to the present applicant. Observations made herein above are prima facie in nature and shall not be considered for Departmental Enquiry or discharge application or at the time of trial as they strictly pertain to considering application under section 439 of Code of Criminal Procedure, 1973.

ORDER

- (i) Application is allowed.
- (ii) Applicant 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.

Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)