

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.278 OF 2015

Abhishek Natwarlal Chaturvedi	..Applicant
<i>-Versus-</i>	
The State of Maharashtra	..Respondent

Mr.Sujit Pathak i/b. ABG & Associates for applicant
Mr.S.H.Yadav, APP for State
Mr.L.S.Ghane, P.S.I. Navghar Police Station.

CORAM : REVATI MOHITE DERE, J.

DATE : 10th March 2015.

P.C.

1] Heard learned Counsel for the applicant and the learned
APP for the respondent State.

2] By this application, the applicant seeks his enlargement on
bail in connection with C.R.No.350 of 2014 registered with the
Navghar Police Station, Bhyander for the alleged offences
punishable under sections 313, 420, 494, 498(a), 506 read with 34
IPC.

3] The Complainant - Chitra has lodged the present complaint, as against the applicant and his mother. The learned Counsel for the applicant contended that the complainant was earlier married to one Arvind Shrivastava and was staying with her husband and children at Mathura. According to the complainant, her husband was a drunkard and was assaulting and ill-treating her. The applicant is stated to be a family friend of the complainant and her family. He is stated to have advised the complainant to migrate to Mumbai to have a better life and future. Accordingly, some time in October 2012 the complainant came to Mumbai leaving her daughter and son at her mother's house. After coming to Mumbai, the applicant is stated to have got the complainant a job, at a Yoga Centre and an accommodation as a paying guest at Bhayander. It is alleged that after passage of time, the complainant and applicant fell in love and the applicant assured the complainant that he would marry her. Accordingly, the applicant booked a room for the complainant and her children at Bhayander. It is alleged that in June 2011 the applicant got married to the complainant in a temple at Bandra. After a few days, the complainant is stated to have got pregnant with the applicant's child. It is alleged that as the applicant

was not ready to father the child, he forced the complainant to undergo an abortion at the Padmavati Maternity Hospital, Bhayander. It is further alleged that in January 2012 the applicant disclosed to the complainant that unless she divorced her husband, the applicant would not be able to marry her, and also could not introduce her to his family members. In January 2012, the complainant filed divorce proceedings at Mathura. It is further alleged that on 19th April 2013, the complainant was again compelled to undergo an abortion, on the instructions of the applicant, at Madhu Maternity Hospital, Bhayander.

4] It is further alleged by the complainant, that on 15th June 2014, she learnt that the applicant was getting married to another girl and hence to avoid the pressure of marriage, the applicant again got married to the complainant at "Jeevdani Temple", Virar on 14th September 2014. On 26th October 2014, the applicant is stated to have gone to his native place and on 3rd December 2014 he is stated to have got married to another girl and informed the complainant about the same, on her mobile phone. It is alleged that on 13th November 2014, when the applicant returned to Mumbai,

the applicant allegedly disclosed to the complainant that he had got married, under family pressure and that he would continue to stay with her. Accordingly, on 14th November 2014 the complainant and applicant executed a deed of marriage at Bandra, with regard to their marriage that had taken place at the Jeevdani Temple, Virar. As the applicant is stated to have again gone to his native place on 21st January 2014 and did not return, the present complaint was filed.

5] Learned Counsel for the applicant contended that the allegations as against him are false. He submits that at no point of time the complainant was compelled to undergo abortion. He submits that only as a counter blast, as the applicant had got married to another girl, the complainant has filed the present complaint.

6] Perused the papers of investigation and more particularly, the statement of the Doctor who conducted the abortion, as well as the medical case papers with regard to the abortion. It appears, prima facie, that the abortion was with the consent of the complainant.

The question, whether it was forced by the applicant or not, is a matter which will be decided by the trial court. Similarly, whether the sexual relations between the parties was consensual or not, is also a matter which will be considered by the trial court. Prima facie, considering the material on record, this is a fit case to enlarge the applicant on bail. Accordingly, the applicant is released on bail, on the following terms and conditions:-

(a) The applicant 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;

(b) The applicant shall not tamper with the evidence or attempt to influence any person concerned with the case, including the complainant;

(c) The applicant shall not leave Thane or Mumbai district without the prior permission of the trial court;

(d) The applicant shall inform his residential address and mobile number to the I.O. and the trial court; and in case there is a change in the address and/or contact number, he shall inform the

same to the I.O. and the court seized of the case.

(e) The applicant shall report to the Navghar police station .
on every Saturday between 10 a.m. and 11 a.m. till the charge sheet
is filed.

(f) 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;

7] Application is disposed of in the aforesaid terms.

8] The learned Judge shall decide the case on its own merits, in
accordance with law, uninfluenced by the prima facie observations
made herein.

9] Parties to act on an authenticated copy of this order:

(REVATI MOHITE DERE J.)