

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 290 OF 2015

Harishchandra Punaji Ghotkar. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Ganesh Bhujbal, advocate for Applicant.

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

CORAM : SMT. SADHANA S. JADHAV,J
DATE : MARCH 11, 2015

P.C.:

1 Heard the learned Counsel for the applicant and Learned APP
for State.

2 This is an application under Section 439 of the Code of Criminal
Procedure, 1973. The applicant herein is arrested on 11/7/2014 in
Crime No. 87 of 2014 registered at Junnar Police Station for offence
punishable under Section 376 of the Indian Penal Code. The
investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 9/7/2014 the prosecutrix herein lodged a report at the police station alleging therein that the present applicant had proposed to her. He has assured her that he is in love with her. It is stated in the first information report that he had proposed to her two years prior to the date of lodging of FIR. That, two months prior to 9/7/2014, when the complainant had gone to fetch water, the complainant is alleged to have specifically asked to the applicant as to when he would marry her and at that time, he told her that after his two sisters would get married, he would get married to her. According to the complainant, he had ravished her first time, thereafter under the pretext of getting married, they had sexual intercourse on several occasions. The complainant has alleged that the applicant had refused to marry and therefore she had lodged report at the police station. It is alleged that the applicant had suspected that the complainant had some illicit intimacy or sexual relations with Ajit Dagadu Bagar and therefore, he had refused to marry her.

4 Perused the papers of investigation. It appears that the complainant was sent for medical examination. She had disclosed to the Doctor that she was in love with the present applicant since 4 years. That he had promised to marry her. That on 25/10/2013 they had first episode of vaginal sexual intercourse and thereafter, on several occasions they had sexual intercourse.

5 Today the complainant is present. The complainant has handed over non-judicial stamp to the learned APP. It is an agreement between the applicant and the complainant. It is stated that he would marry her after her two sisters get married. It was also agreed that in the eventuality he refuses to marry her, the complainant can prosecute her. It is pertinent to note that in the said agreement, it is specifically stated that they had love relations. The agreement was executed before Tanta Mukti Samiti(Grievance Redressal Forum of the village). President, Vice President of the Samiti, Upsarpanch were present when the agreement was executed. In fact no such agreement can be executed before Tanta Mukti Samiti. It was not a

dispute which can be resolved before the Samiti.

6 The applicant has not been charge-sheeted for an offence punishable under Section 420 of the Indian Penal Code. At the time of incident, the complainant had attained majority. The school leaving certificate does not find place in the compilation of the charge-sheet. However, even according to the complainant, she is more than 19 years old. It prima facie appears that there was consensual sex between the complainant and the applicant. A discordant note appears to have been struck between the complainant and the applicant, due to which the complaint has been filed. Since the investigation is completed and charge-sheet is filed. Moreover, the applicant has been in jail for more than 7 months, the applicant would be entitled to grant of bail.

7 The observations made hereinabove are prima facie in nature. The same shall not be considered at the time of deciding the application for discharge or for quashing of FIR or at the time trial.

8 Hence, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) In Crime No. 87/2014 registered at Junnar Police Station, the 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.
- (iii) The applicant shall not contact the complainant in any manner.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)