

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 795 OF 2015**

Yogesh Laxman Shirke

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Nilesh V. B. Pawaskar i/b Ms. Geetanjali V. Shinde and Ms. Suchita Vetate for the Applicant

Ms. P. P. Shinde, A.P.P for the Respondent-State

PSI Mr. Ghodake from Gorai Police Station is present

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 7th MAY, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 9 of 2015 registered with the Gorai Police Station for the alleged offence punishable under Section 376 of the Indian Penal Code.
3. The complainant is the prosecutrix who has lodged a complaint with the Gorai Police Station on 10th March, 2015. The prosecutrix was 26

years of age and the applicant was 29 years of age, at the relevant time. It is alleged by the prosecutrix that when she was working with Sterling Back Check Company, she met the present applicant. The acquaintance developed into a love affair and that they started meeting quite often. It is alleged that the applicant sent her SMS's informing her that he loved her and thereafter by the end of July, 2014 the prosecutrix had also disclosed to him that she was in love with him. It is alleged that the applicant took the prosecutrix to Gorai Sea Face Hotel and disclosed that he loved her and wanted to marry her. He is also alleged to have disclosed to her that he was married earlier and had a 5 years old son, however, he was a divorcee. It is alleged that the applicant had relations with her despite her objecting to the same. It is alleged that thereafter, she continued to go out with the applicant and that every time, the applicant had sexual relations with her, without her consent. The prosecutrix is alleged to have gone to Shirdi with the applicant and stayed there in December, 2014. She has alleged that on 3rd March, 2015, apprehending that she was pregnant, she went for a physical check-up and learnt that she was pregnant and hence disclosed the same to the applicant, who asked her to abort the child. It is alleged that the applicant thereafter told the prosecutrix that he would not marry her and

started avoiding the prosecutrix. According to her, the applicant had sexual relations with her against her consent, pursuant to which, the present compliant was filed.

4. Learned Counsel for the applicant submitted that the applicant has been in custody since the date of his arrest i.e. from 10th March, 2015. He submitted that both the applicant and the prosecutrix were adults and that the relations between the parties were by consent. He submitted that there was no suppression of the facts, that the applicant was a married man with a child.

5. Considering the aforesaid facts and the fact that the applicant has been in custody since the date of his arrest, the applicant is directed to be released on bail on the following terms and conditions :

ORDER

(i) The applicant Yogesh Laxman Shirke be released on bail in connection with C.R. No. 9 of 2015 registered with the Gorai Police Station, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

- (ii) The applicant shall attend the Gorai Police Station on every Saturday between 11:00 a.m. to 12:00 noon till the filing of the charge-sheet and thereafter, as and when called for;
- (iii) The applicant shall not intimidate or contact the prosecutrix or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Gorai Police Station;
- (v) The applicant to cooperate with the conduct of the trial;
- (vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

5. The aforesaid observations are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
6. The Application is allowed in the aforesaid terms and is accordingly disposed of.
7. Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.