

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL BAIL APPLICATION NO. 825 OF 2015**

|                                     |               |
|-------------------------------------|---------------|
| Rajesh @ Mohan Laxminarayan Agarwal | ...Applicant  |
| Versus                              |               |
| State of Maharashtra                | ...Respondent |

Ms. Mallika A. Ingale for the Applicant

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

Mr. Rahul Karnik for the original complainant

PI Ms. Sunayana Nate from Samata Nagar Police Station is present

**CORAM : REVATI MOHITE DERE, J.**

**THURSDAY, 30<sup>th</sup> APRIL, 2015**

**P.C. :**

1. Heard learned Counsel for the applicant, the learned A.P.P and the learned Counsel for the original complainant.
  
2. By this application, the applicant seeks his enlargement on bail in connection with C.R No. 123 of 2015 registered with the Samata Nagar Police Station, for the alleged offence punishable under Section 376 of the Indian Penal Code.

3. The complainant is the prosecutrix aged 38 years. The applicant is 53 years of age. It is alleged by the prosecutrix that she met the applicant in the year 2009 when she was working as an LIC agent. It is alleged that the applicant asked the prosecutrix for help, when he learnt that she was working as an LIC agent. It is alleged that the applicant and the prosecutrix thereafter met and continued to meet on some pretext or the other. It is alleged by the prosecutrix that the applicant and she fell in love with each other and that they started meeting each other. It is alleged that in January, 2010, the applicant invited the prosecutrix to his brother's house and showed her the divorce papers and proposed marriage with the prosecutrix. According to her, when the applicant called her to his brother's house, after consuming alcohol, he had physical relations with her, on the promise of marriage. She has alleged that believing the applicant that he would marry her, she had physical relations with the applicant. From 2010 to 2014, the applicant and the prosecutrix continued meeting each other. In October, 2014, it is alleged by the prosecutrix that the applicant got a new residential premises under the SRA scheme and hence, the ex-wife of the applicant and his son started coming and

pressurising the applicant to transfer the house in their name and also started pressurising the prosecutrix to stop relations with the applicant. It is alleged by the prosecutrix that she asked the applicant to take a decision as to whether he was going to marry her or not and that the applicant was to take a decision on 15<sup>th</sup> March, 2014. It is alleged that after 15<sup>th</sup> March, 2014, the applicant stopped meeting the prosecutrix and flatly refused to marry her.

4. Learned Counsel for the applicant submitted that the applicant has been in custody since 16<sup>th</sup> March, 2014. She submitted that both the prosecutrix and the applicant were adults, aged 38 years and 53 years respectively and therefore the relations that were established were by consent. Learned Counsel for the applicant has alleged that the prosecutrix, herself was arrested in connection with other offences pertaining to cheating, however, the same is irrelevant.

5. Learned A.P.P as well as the learned counsel for the complainant submitted that the applicant had deceived the prosecutrix and despite promising marriage with the prosecutrix, had failed to marry her

and had established relations with her only on the assurance that he would marry her.

6. Perused the application, more particularly, the statement of the prosecutrix. Considering the nature of allegations and the fact that the applicant has been in custody since 16<sup>th</sup> March, 2014, the applicant is enlarged on bail on the following terms and conditions:

**ORDER**

- (i) The applicant Rajesh @ Mohan Laxminarayan Agarwal be released on bail in connection with C.R No. 123 of 2015 registered with the Samata Nagar Police Station, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the Samata Nagar Police Station once in a month on the first Saturday of every month between 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;
- (iii) The applicant shall not intimidate or attempt to contact or threaten the prosecutrix or any witness concerned with the case, either directly or indirectly through his wife or son;

(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 Samata Nagar 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.

7. 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.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. Parties to act on the authenticated copy of this order.

**REVATI MOHITE DERE, J.**