

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.862 OF 2015

Vishal Vijay Patil .Applicant

V/s.

The State of Maharashtra .Respondent

Mr.K.J.Patil & Ms Trupti A. Bharadi, Advocate,
for the Applicant

Mr.Y.M.Nakhwa, APP, for the Respondent - State

CORAM : REVATI MOHITE DERE, J.

DATE : 28TH APRIL, 2015

P.C.

. Heard the 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.78 of 2015 registered with the Jogeshwari Police Station, Mumbai, for the alleged offences punishable under Sections 376 & 420 of the Indian Penal Code.

3. The prosecutrix is 26 years and the applicant is 31 years. It is alleged by the prosecutrix that she met the applicant in the Samsung Mobile Agency at Andheri where both of them were working. The applicant was working in the said agency as a team leader at the relevant time. Both, the applicant and the prosecutrix would meet often and it is alleged that on 23.08.2011, she received a message from the applicant's mobile asking her to marry her. According to the prosecutrix, she replied that as she belonged to the Muslim community, she could not marry him to which the applicant stated that he was ready to accept Islam as his religion. It is alleged by the prosecutrix that from 2011 to 2014 on the pretext of marriage with the prosecutrix, the applicant took her to various places and had sexual relations with her. She has alleged that she consented to the said relations only as the applicant had promised to marry her. It is alleged by the prosecutrix that the

applicant shifted to Pune for a job. It is alleged by her that she was telling the applicant to get married, however, the applicant was asking her to wait for some time. Pursuant to the same, there were quarrels between the applicant and the prosecutrix. It is alleged that after December, 2014, the applicant did not respond to the phone calls made by the prosecutrix. Hence, the present complaint has been lodged.

4. The learned counsel for the applicant submitted that the applicant has been in custody since 29.03.2014, i.e. from the date of his arrest. He submitted that it is a case of breach of promise to marry. He submitted both the applicant and the prosecutrix are adult and it is evident from the statement of the prosecutrix that the prosecutrix had consented to the relations.

5. The learned APP opposed the bail application. He submitted that investigation is in progress and the applicant is likely to tamper with the witnesses whose statements are to be recorded.

6. Perused the papers. Admittedly, the prosecutrix and the applicant are adults. It appears to be a case of breach of promise to marry. The consent was allegedly obtained on the promise of marriage.

7. The applicant has been in custody since 29.03.2014. Considering the nature of allegations, i.e. the consent was obtained on the assurance of marriage and that the applicant is in custody for about one year, the applicant is enlarged on bail on the following terms & conditions;

(i) The applicant be enlarged on bail on his furnishing P.R.Bond in the sum of

Rs.15,000/- with one or two solvent sureties in the like amount;

(ii) The applicant shall not enter the jurisdiction of the Versova Police Station, Mumbai, where the complainant is residing and the Malad Police Station, Mumbai, where her parents are residing;

(iii) The applicant shall attend the Jogeshwari Police Station, Mumbai on every Saturday & Sunday from 10.00 a.m. to 12.00 noon till the filing of the charge-sheet and thereafter, on the 1st Saturday of every month till conclusion of the trial;

(iv) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case ;

(v) The applicant to co-operate with the conduct of the trial;

(vi) Upon failure to abide by any of the aforesaid conditions, the prosecution is at liberty to seek cancellation of Applicant's bail;

8. 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.

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

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)