

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1082 OF 2015

Vijay Rajendra Yadav. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Victor Chettiar, advocate for Applicant.

Ms. A.T. Jhaveri, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JULY 8, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State. Perused the papers.

2 This is an application under Seciton 439 of the Code of Criminal
Procedure, 1973. The applicant is arrested on 12/2/2015 in Crime
No. 52 of 2015 registered at Amboli Police Station, Andheri (W) for
offence punishable under Section 376, 313 read with Section 34 of
the Indian Penal Code.

3 It is the case of the prosecution that on 12/2/2015 prosecutrix aged about 21 years lodged a report alleging therein that the applicant was residing in her locality. That they got acquainted with each other. Their acquaintance had developed into love. That the applicant was stalking her. He had taken her to his house. He had proposed to her. He had assured to marry her. On the basis of the said assurance, he had obtained consent for sexual intercourse from the prosecutrix. That the prosecutrix had conceived pregnancy. It is alleged that the applicant had threatened her that unless the said pregnancy was aborted, he would not get married to her and on that count, the complainant was made to abort the said pregnancy. The complainant had given consent under coercion and threat. That the applicant was asking her to fetch money from her house and therefore, she had to steal money from her parents house and give the same to the applicant. In this way, she had given Rs. 1,70,000/-. She had been to the house of the applicant on 17/1/2015. She had also visited the parents of the applicant. He was evading to get married to her. Upon further enquiry, it was revealed that he was

already married man and that his wife was carrying pregnancy. He refused to meet her and finally on 17/1/2015 he had left for Nizampur in U.P. The complainant had then tried to contact him. He refused to marry her. Hence, she was constrained to lodge the report. Investigation is completed and charge-sheet is filed.

4 The learned Counsel for the applicant submits that the since the investigation is completed and charge-sheet is filed, the applicant would be entitled to grant of bail.

5 However, taking into consideration, the facts of the case and the details of the investigation, this Court is not inclined to grant bail to the applicant. It is apparent that the consent was obtained under the false assurance and she was made to abort the pregnancy under threat and coercion. The same cannot be considered as volition on the part of the complainant as she was carried away by the false assurance given by the applicant.

6 The papers of investigation would reveal that the present applicant had accompanied the prosecutrix to Dr. Bhate's Shubhdeep Nursing Home and signed on the consent-cum-undertaking. He has signed as a friend. It is true that the brother of the prosecutrix had accompanied the applicant and the prosecutrix to the hospital at the time of medical termination of pregnancy. This would further fortify that the applicant had assured the prosecutrix and her relatives that he would get married to her in the eventuality that she terminates the pregnancy. The element of cheating is apparent on the face of record since the applicant was a married man and at that relevant time his wife was carrying pregnancy. On the day when she was ravished, the prosecutrix was hardly 20 years old. Statement of the accused was recorded on 12/2/2015 by the police. He has specifically stated that he is unemployed. The allegation of coercing the prosecutrix to steal money from her house is corroborated. She has specifically stated that she have to steal valuables and money to the tune of Rs. 1,70,000/-.

7 In view of the above observations, the applicant does not deserve grant of bail. The application being sans merit stands rejected.

(SMT. SADHANA S. JADHAV,J)