

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1227 OF 2015

Bhuvaneshwar Moreshwar Raut

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Prakash Naik i/b Ms. Vrushali Raje for Applicant

Mr. S. H. Yadav APP for the State.

Mr. A. D. Shinde, P.S.I. Vangaon Police Station

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 30th JULY 2015

PC :

Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 10/06/2015 in crime no. 14 of 2015 registered at Vangaon Police Station for offence punishable under section 376 and 417 of Indian Penal Code.

2) It is the case of prosecution that on 09/06/2015, prosecutrix lodged a report at the police station alleging therein that she works in a cottage industry, where they prepare beads. That she used to go for work along with her friends. She has a friend namely Jayashree. Present applicant happens to be husband of Jayashree. According to her, on 31/03/2014, she had gone to

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work in the agricultural land. Applicant had followed her and solicited sexual favours. That initially she had declined to oblige him on the ground that he was a married man and having children. However, he assured her that he would get married to her and on the said ground, she agreed to have consensual sex with the applicant. Subsequently, applicant had refused to marry her. Complainant had informed about it to her parents. They had no objection to her getting married to the applicant, however, he had refused to get married. The issue was taken before Dispute Resolution Committee i.e. Mahatma Gandhi Tanta Mukti Samiti, Bahad-Pokhran on 02/12/2014. Before the said committee, applicant had expressed that he was willing to marry the complainant. According to him, the examinations of his children were to commence and therefore, he gave an undertaking to the Committee that he would get married to the complainant on 05/06/2015.

3) Despite giving an undertaking, applicant is alleged to have evaded to get married. On 23/06/2014, complainant had initially given a letter to the said Committee that the applicant is defaming her on the ground that she had relations with other men and therefore, he is evading to get married to her. However, after enquiry by the Committee, applicant had agreed to get

married. It is in these circumstances, complainant lodged a report at the police station, mainly on the ground that applicant had refused to marry her after having sexual relations and hence, applicant is also being prosecuted for offence under section 417 of Indian Penal Code.

4) Learned APP submits that there is an element of cheating. That the applicant never intended to marry the complainant. That he was a married man with children and therefore, he does not deserve bail.

5) As against this, learned counsel for the applicant submits that complainant was a major girl. She knew the consequences of her act. She was fully aware that applicant is a married man. In fact, wife of applicant was a good friend of complainant and therefore, it can be said that she had obliged the applicant after knowing the consequences of her act. According to learned counsel, the only offence for which the applicant would be held liable is section 417 of Indian Penal Code which will have to be established by the prosecution, only after adducing substantive evidence. It is further submitted that there is an inordinate delay in lodging F.I.R., and there is no plausible explanation for the same.

6) This Court cannot be oblivious of the fact that complainant had

approached Dispute Resolution Committee, way back in June 2014. In fact, the said Committee could not have entertained the complaint. But in all probabilities, it was assumed that the only grievance is that applicant is not getting married to the complainant as promised. Statement of the complainant is recorded under section 164 of Code of Criminal Procedure, 1973. In the said statement also, she has contended that applicant has refused to marry her after having established sexual relations.

7) Learned APP submits that investigation is still in progress and therefore, applicant does not deserve bail, however, upon perusal of papers of investigation, it appears that investigation is almost completed. In view of this, application deserves to be allowed.

8) Taking into consideration the above mentioned reasons and submissions advanced across the bar, applicant deserves to be enlarged on bail. It is made clear that the observations made herein above are restricted to the application under section 439 of Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- (iii) Applicant shall not reside within the periphery of Bahad-Pokharan, for a period of 3 months from the date of his release.
- (iv) Applicant shall furnish his address, cellphone number and other details to the investigating officer during the said three months.
- (v) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)