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

BAIL APPLICATION NO.1595 OF 2015

Latish Ghanshamdas Sukheja	...Applicant
Versus	
The State of Maharashtra	...Respondent

BAIL APPLICATION NO.1604 OF 2015

Manoj Ramchand Rajani	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.R.D.Suryawanshi, for the Applicants

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

CORAM : REVATI MOHITE DERE, J.
DATE : 29th SEPTEMBER, 2015

P.C. :

1. Heard learned Counsel for the applicants and the learned A.P.P.

2. By this application, the applicants seek their enlargement on bail in connection with C.R. No.I-204 of 2015, registered with the Hill Line Police Station, Thane for the alleged offences punishable under Sections 376(2)(N), 376(K)(A), 506(2), 120B r/w 34 of the Indian Penal Code.

3. The incident in question is alleged to have taken place some time between February – March, 2013 and thereafter for a period of about two years. According to the prosecutrix, aged 35 years, sometime in the month of February - March, 2013 co-accused – Anil Kamra @Mukhi, (Applicant in Anticipatory Bail application No.1091 of 2015) called her to his office to place an order of Tupperware products, as the prosecutrix was doing business in Tupperware products. She has alleged that as the co-accused – Anil Kamra insisted that she should come to his office, she went to meet the co-accused – Anil Kamra at his office. She has alleged that when she reached the office, Manoj Ramchand Rajani (Applicant in Bail Application No.1604 of 2015) was sitting in the office. According to the prosecutrix, the co-accused – Anil Kamra offered tea to her, pursuant to which, she felt uneasy and became unconscious. She has alleged that when she regained her consciousness, she was on a bed, that she was feeling heavy in the head and had pain in her body. She has stated that she did not remember what had happened to her on that day, however, suspected that some incident had taken place. She has alleged that co-accused – Anil Kamra and Manoj Ramchand Rajani had thereafter sent her back to her residence, in an auto-rickshaw. According to the prosecutrix, again after a

week, co-accused – Anil Kamra, called her to his office stating that few of his friends wanted to place a huge order of Tupperware products. Pursuant to which, the prosecutrix again visited the office of co-accused – Anil Kamra. It is alleged that all the accused including the present two applicants were present in the said shop/office. According to the prosecutrix, co-accused – Anil Kamra showed a video of said co-accused – Anil Kamra and the prosecutrix having physical relations and disclosed to her that all the accused had physical relations with her and that the same is recorded in the video/smart phones/computer. It is alleged that all the accused including the applicants threatened the prosecutrix to keep quiet, failing which they would circulate the video to all her relatives as well as to the public. According to the prosecutrix, she kept silent for a period of about two years, as the accused were threatening her. She has alleged that during the said period of two years i.e. after 12th March 2013 till about February – March 2015 all the accused were continuously committing forcible sexual intercourse with her. According to her, due to fear of the accused persons, she did not file any complaint with the Hill Line Police Station and lodged a complaint with Mahatma Phule Police Station at Kalyan, which came to be registered as 00 of 2015. Subsequently, the said

case came to be transferred to the Hill Line Police Station and came to be numbered as C.R. No.I-204 of 2015.

4. Learned Counsel for the Applicants contended that the prosecutrix has lodged a false and baseless complaint, as against the applicants. He submits that the allegations that she was being sexually assaulted by the applicants and the others is baseless on several counts ; i) there is delay of 28 months from the alleged first incident of February – March, 2013, in lodging the FIR ii) the very same prosecutrix who states that she was threatened and intimidated by the applicants and others had lodged another FIR bearing C.R.No.I-193 of 2013 for the alleged offences punishable under Section 354, 323, 504, 506, 427 r/w 34 of the Indian Penal Code on 7th October, 2013 with the Hill Line Police Station, as against her neighbour iii) thereafter the prosecutrix's father has also lodged an FIR bearing No.I-35 of 2013 on 9th March, 2013, alleging offences punishable under Sections 324, 323, 504, 34 of the Indian Penal Code. This was with respect to a quarrel between the prosecutrix and the neighbour v) the prosecutrix had also lodged an NC bearing No.347 of 2013 with the Hill Line Police Station.

5. Learned Counsel for the Applicants relied on the aforesaid complaints to show that the prosecutrix was not a novice to lodging of the complaints and was familiar with the procedure for lodging the complaints. He submitted that the applicants have been falsely implicated as the applicant - Latish Ghanshamdas Sukheja (Applicant in Bail Application No.1595 of 2015) had taken action against the Senior P.I. - Dhananjay Dhopavkar of the Hill Line Police Station. He submitted that the said Latish Sukheja, had made a grievance to the Police Commissioner against Senior P.I. - Dhananjay Dhopavkar, in connection with an offence where a rape was committed on a minor girl. Learned Counsel relied on a letter dated 13th January, 2015, written to the Superintendent of Police, Ambarnath Division, Ambarnath, to the Assistant Commissioner of Police, Ambarnath Division, Thane City, District – Thane, Home Minister etc., wherein, specific allegations were made against the Senior P.I. - Dhananjay Dhopavkar. He submitted that infact Latish Sukheja, had even filed a Criminal Writ Petition in this Court, being Writ Petition No.3274 of 2015 as the said Senior P.I. - Dhananjay Dhopavkar was not investigating the case. He submitted that in the said Writ Petition, Latish Sukheja, who is a

Social Worker, had made certain allegations against the said Senior P.I. - Dhananjay Dhopavkar. He relied on an affidavit filed by Manik Asaram Bakhre, Assistant Commissioner of Police, Ambarnath Division, Thane City, District – Thane in the aforesaid Writ Petition, wherein the said Assistant Commissioner of Police has stated that he had conducted an inquiry against the said Senior P.I. - Dhananjay Dhopavkar, which was initiated as per the directions of D.C.P., Zone – IV, Thane City. It appears from the said affidavit, that in the said inquiry, the Senior P.I. - Dhananjay Dhopavkar refused to give his statement and that after conducting the inquiry, a report was submitted to the Commissioner of Police, Thane, and the findings of the inquiry were “default report of Sr.P.I. Shri Dhopavkar and other things reveals things during the course of inquiry.” He has further stated in para 8 of the affidavit that after conducting the inquiry, D.C.P., Zone – IV, Thane City, directed the Assistant Commissioner of Police to register the case under section 166(A) of the Indian Penal Code, against the concerned responsible officer. Accordingly, he had submitted a report seeking permission to register an offence against the said Senior P.I. - Dhananjay Dhopavkar. According to the learned counsel for the applicants, it is at the instance of this officer i.e. Sr.P.I. Shri Dhopavkar,

that the present complaint has been lodged, by the prosecutrix, knowing well that no such incident had taken place. He submits that the applicant – Latish is paying the price for taking on the officer. Learned Counsel for the applicants has also relied on certain transcripts of conversations which were subsequently recorded to show the falsity of the prosecutrix. He submitted that the transcripts will show that it is at the behest of the said officer that the present complaint has been lodged by the prosecutrix.

6. Learned APP submitted that considering the nature of allegations which are serious in nature, the application be rejected. With regard to the documents which were placed on record, which is letter dated 13th January, 2015 and an affidavit filed in Writ Petition No.3274 of 2015, she submitted that the same are a matter of record. She has tendered a compilation of documents of statements, which have been recorded in the said case.

7. Perused the papers, including the papers submitted by the Investigating Officer in the a sealed envelope. Some of the statements, which were tendered show that they had never seen the prosecutrix visit the

said place/office of co-accused – Anil Kamra, nor had the witnesses seen the prosecutrix in the company of the accused/applicants. No CD/recording or any other incriminating material is seized at the instance of the applicants. It appears that investigation is complete and charge sheet is likely to be filed tomorrow i.e. 30th September, 2015.

8. Considering the peculiar facts of the case and the fact that the investigation is almost complete, the applicants deserve to be enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- each with one or two sureties in the like amount;
- (ii) The applicants shall attend the concerned Police Station, on the first Saturday of every month between 11:00 a.m. to 12:00 noon till the conclusion of the trial;
- (iii) The applicants shall not tamper, contact, threaten or attempt to

influence the prosecutrix, witnesses or any person concerned with the case;

(iv) The applicants shall not enter the jurisdiction of Mahatma Phule Chowk Police Station, where the prosecutrix resides, except for attending the Court on the date of hearing ;

(v) The applicants to cooperate with the conduct of the trial.

9. The Applications are allowed in the aforesaid terms and are accordingly disposed of.

10. It is made clear that the observations made herein 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.

11. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.

CERTIFICATE

*Certified to be true and correct copy of the original signed
Judgment/order.*
