

Anand

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

BAIL APPLICATION NO.1654 OF 2015

Shailesh Janu Gaurat .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.A.G.Lalla a/w. Ms Beerata Bajwa i/b. Lalla &
Lalla, Advocate, for the Applicant
Mrs.Rutuja Ambekar, APP, for the Respondent –
State

CORAM : REVATI MOHITE DERE, J.

DATE : 11.09.2015

P.C.

. Heard 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.406 of 2015 registered with the Malvani
Police Station, Mumbai, for the alleged offences
punishable under Sections 323 & 376 of the
Indian Penal Code, 1870.

3. The applicant is aged 33 years and the prosecutrix is aged 41 years. It is alleged by the prosecutrix that she had met the applicant three years prior to the incident and that they were on visiting terms and were in regular touch on phone. She has alleged that in October, 2014, the present applicant asked her to meet her, failing which he would commit suicide. Pursuant to the said threat, the prosecutrix is alleged to have gone to meet the applicant. It is alleged that the applicant took her to Virar and kept her in captivity for eight months. In the interregnum, the prosecutrix's husband lodged a missing complaint. Thereafter, it is alleged by the prosecutrix that finding an opportunity, she contacted her husband, pursuant to which the missing complaint came to be withdrawn. It appears from the complaint, that even thereafter, the applicant and the prosecutrix continued to meet each other and were in touch

on phone. She has alleged that on 04.07.2015, the applicant called her to the Andheri Rly. Station to meet him and took her to Malad. She has alleged that thereafter, the applicant took her to Madh Island where he took her to a lodge, quarreled with her, assaulted her and committed forcible sexual intercourse on her. The applicant is then stated to have dropped her back at the station, pursuant to which the aforesaid complaint came to be lodged.

4. Perused the FIR. It appears that both the applicant and the prosecutrix were married and have children. It appears that both were meeting each other and were in touch with each other for almost three years prior to the incident. Whether or not the relations between the parties was consensual or not, is a matter which will be decided by the trial Court.

5. Prima facie, considering the nature of allegations as they stand, the applicant is entitled to be enlarged on bail on the following terms and conditions :

ORDER

(i) The applicant be enlarged on cash bail in the sum of Rs.20,000/-, for a period of four weeks. The applicant shall thereafter furnish P.R.Bond of Rs.10,000/- with one or two sureties in the like amount, within a period of two weeks of his release on cash bail;

(ii) The applicant shall not tamper or attempt to influence or contact the prosecutrix, witnesses or any person concerned with the case;

(iii) If there is a breach of the aforesaid condition, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

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

7. 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.

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.