

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1988 OF 2015**

Shoeb Mazhar Khan	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. S. R. Gaud for the Applicant

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

CORAM : REVATI MOHITE DERE, J.
SATURDAY, 17TH OCTOBER, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 447 of 2015 registered with the Khar Police Station, for the alleged offences punishable under Sections 498A, 376, 323, 504, 506(II) of the Indian Penal Code.

3. The complainant/alleged prosecutrix is the wife of the present applicant. According to the complainant, who is aged 29 years, she was a divorcee having a daughter, when she met the applicant. She has alleged

that after her divorce, she met the present applicant and subsequently they got married. She has alleged that the applicant was harassing her and demanding money and that he had demanded Rs. 20 lakhs from her. It is alleged by the complainant that because of the harassment, on one such occasion, she even attempted to commit suicide. She has also alleged that the applicant would have forceful anal sex with her.

4. Learned Counsel for the applicant states that the applicant is the wife of the complainant and therefore, no offence under Section 376 IPC as alleged, is made out *qua* the applicant. He submits that the applicant has been in custody since his arrest i.e. 13th September, 2015. He submits that considering the nature of allegations, the applicant be enlarged on bail.

5. Learned A.P.P submits that considering the nature of allegations, Section 377 of the IPC is attracted.

6. Considering the peculiar facts of the case and the fact that the applicant has been in custody since his arrest, the application is allowed

and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be initially released on provisional cash bail in the sum of Rs. 15,000/- for a period of three weeks. The applicant shall, within the said period, furnish PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on every Saturday from 10:00 a.m. to 11:00 a.m. till the filing of the charge-sheet and thereafter on the first Saturday of every month from 10:00 a.m. to 11:00 a.m for a period of 12 months after filing of the charge-sheet;
- (iii) The applicant shall not tamper or attempt to influence, intimidate or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or

change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial;

(vi) If there is a breach of any of the aforesaid conditions, 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.

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

REVATI MOHITE DERE, J.