

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

BAIL APPLICATION NO.154 OF 2016

Shamsher @ Shahid AhmedApplicant.

Vs.

The State of Maharashtra.Respondent.

Mr. Himanshu Shinde for the Applicant.

Mrs. Rutuja Ambekar, APP. for the Respondent State.

CORAM : A.S.GADKARI, J.

DATE : 17TH FEBRUARY, 2016.

PC:

This is an application for bail in CR No.353 of 2015 registered with Meghwadi Police Station, Jogeshwari, Mumbai under Sections- 376 and 506 of the Indian Penal Code.

2) The complainant is a married woman aged about 36 years has lodged report dated 27.11.2015 inter alia stating that she was having acquaintance with the present applicant. That, eight months prior to 27.1.2015 the applicant firstly committed an act as contemplated under Section 376 of the Indian Penal Code. He thereafter repeated the said act for five times in the span of about seven months. That, on 25.11.2015, the co-sister of the

complainant saw her from coming out of the house of the applicant and on enquiry the complainant told her about the alleged act committed by the applicant in last eight months. The said co-sister of the complainant informed the said fact to the husband of the complainant and thereafter the present first information report is lodged.

3) The learned APP on instructions submitted that the investigation in the present crime is completed and the Investigating officer has sent charge sheet for filing it in the Court of Metropolitan Magistrate.

4) The learned counsel for the applicant submitted that, from a plain reading of the first information report itself, it reveals that the act of the applicant with the complainant was a consensual act and therefore, it is difficult to say that the provisions of Section 376 of the Indian Penal Code are attracted in the present case. He further submitted that it is only because the co-sister of the complainant saw her coming out of the house of the applicant, the extra marital affair which was between the applicant and the complainant came into light. I find substance in the said contention. In view of the same, I am of the opinion that the applicant has made out a case for his release on bail.

Hence, the following order.

ORDER

- a) The applicant be released on bail in CR No.353 of 2015 registered with Meghwadi Police Station, Jogeshwari, Mumbai on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- b) After his release from Jail the applicant shall attend the Meghwadi Police Station on every 1st Monday of the month between 10.00 a.m. to 12.00 noon till the conclusion of the trial.
- c) The applicant shall not tamper with the evidence and or influence the prosecution witnesses.
- d) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)