

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.260 OF 2016

MAHESH JANAKRAI JANI

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA & ANR.

)...RESPONDENTS

Shri Rishi Bhuta, Advocate for the Applicant.

Shri H.J.Dedhia, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 8th JUNE 2016.

P.C. :

1 This is an application for grant of bail by accused involved in C.R.No.238 of 2015 registered with Kasturba Marg Police Station for the offences punishable under Sections 328, 376 and 385 of the IPC. The learned counsel for the applicant has stated that this is the first application before this court.

2 Heard the learned counsel for the parties.

3 On perusal of the documents made available by the learned APP, it appears that the incident took place between the years 2007 to 2015 involving complainant who is aged 36 years. Report is lodged on 12th July 2015 and the accused came to be arrested on the same date. As per the contents of Report, it is alleged that the prosecutrix who is the complainant on going through an advertisement in a local paper approached to the office of the applicant who was running a marriage counseling bureau and on brief introduction with each other, secured job with the applicant on monthly salary of Rs.3500/-. The complainant continued to work with the applicant till the date of incident i.e. on 12th July 2015, on which date, it is alleged that applicant after allowing female employees to leave the office, called her in his cabin and after performing prayer offered something to eat, which was consumed by the complainant and lost her senses. It is her case that when she came to senses, she realized that she was subjected to rape.

 It is further alleged that after this incident, the applicant on many occasions continued such incident against her

wish. From the report it further reveals that the incident of rape was continued by the applicant at other places other than his office, whenever he could get an opportunity, after administering something to eat to the victim, after which she used to go unconscious. In the background of such facts, in the year 2013 the complainant got married with one Mitesh Chheda and started residing at Dahisar (East), Mumbai, and continued her job with the applicant, as the applicant had extended threats to her to not to leave the job, else he would publish the clips and photographs obtained by him amongst her family members and to her in-laws. Due to such threats, the victim continued in the office of the applicant and ultimately in the month of February 2015, left the job. It is also contended that during this period also she was subjected to rape.

4 The learned APP has submitted that there is evidence to establish that the applicant has obtained photographs and video shootings involving him and the victim of which no complaint was lodged by the victim as she was threatened. It is also contended

that the accused has subjected the victim's sister to rape and apart from her, there are statements of 4 to 5 other females alleging that accused had outraged their modesty. The learned APP has invited my attention to the spot panchnama which is the shop premises of the applicant where from 15 photographs of females in nude condition and number of female inner garments etc. came to be seized along with 10 to 12 memory cards. It is contended that such memory cards are forwarded for its analysis to Forensic Lab. However, the reports are yet to be received.

5 Having considered the evidence as aforesaid, and since prima facie it is found that the applicant is indulged into such activities not only with the complainant, who though late, had lodged complaint against the applicant, but from the documents on record as it appears that the applicant apart from the victim has indulged in such acts with her sister and has outraged the modesty of other females.

The applicant is not found to be entitled to be released on bail as in the event of his being released on bail, possibility of his tampering with the witnesses cannot be ruled out.

6 In the circumstances and in the interest of justice following order is passed :

i) Bail application stands rejected.

Needless to say, that the trial court shall not be influenced with the observations made in this order.

ii) However, the learned trial Judge is requested to conclude the trial expeditiously and within a period of one year from the date of receipt of the writ.

(P. N. DESHMUKH, J.)