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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1122 OF 2016**

Anil Hardasmal Kamra@Mukhi	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
BAIL APPLICATION NO.1149 OF 2016**

Naresh Sajandas Rohra	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.R.D.Suryawanshi, for the Applicants

Mr.H.J.Dediya, A.P.P for the Respondent-State

Mr.V.Satne, for the Original Complainant.

***CORAM : REVATI MOHITE DERE, J.
DATE : 8th JULY, 2016***

P.C. :

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

2. By these applications, 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. At the outset, learned counsel for the applicants seek bail on the ground of parity. They submit that similarly placed co-accused – Latish Ghanshamdas Sukheja and Manoj Ramchand Rajani have been enlarged on bail by this Court vide order dated 29th September, 2015 passed in Criminal Bail Application Nos.1595 and 1604 of 2015. They submitted that although, the learned Sessions Judge, Kalyan had observed that ‘Nevertheless some of the witnesses have not supported the case of the prosecution’, the application has been rejected on the ground that the applicant had committed an anti-social and heinous crime. Learned Counsel further submitted that in the enquiry, which was initiated against the Senior P.I. - Dhananjay Dhopavkar, Anil Hardasmal Kamra@Mukhi (Applicant in BA No.1122 of 2016) had participated in the said enquiry. They submitted that even otherwise there was delay of 2 years in lodging the aforesaid CR. According to the learned counsel for the applicants, none of the witnesses have stated that the applicants were seen with the complainant at any point of time. They also submitted that the transcripts of a conversation recorded show the falsity in the case, and that the

prosecution had lodged the complaint, at the behest of the Senior P.I. - Dhananjay Dhopavkar, when infact, no such incident had taken place.

4. 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 Anil Kamra @Mukhi, (Applicant in BA No.1122 of 2016) 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 Anil Kamra at his office. She has alleged that when she reached the office, Manoj Ramchand Rajani was sitting in the office. According to the prosecutrix, Anil Kamra offered her tea, 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 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, 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 Anil Kamra. It is alleged that all the accused were present in the said shop/office. According to the prosecutrix, Anil Kamra showed a video of himself and the prosecutrix having physical relations and disclosed to her that all the accused had physical relations with her and that the same was 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.

5. Learned APP is unable to point out, how the role of the applicants is different from the co-accused who have been enlarged on bail by this Court. His only submission is that there are antecedents, qua the applicants. He does not dispute the fact, that no case has been registered as against the applicants, for the offences, punishable under Section 354 or section 376 of the Indian Penal Code. He states that the said order enlarging the co-accused has not been challenged by the State.

6. Perused the papers. It is not in dispute that co-accused – Latish Ghanshamdas Sukheja and Manoj Ramchand Rajani have been enlarged on bail by this Court vide order dated 29th September, 2015, passed in Criminal Bail Application Nos.1595 and 1604 of 2015. It appears from the statement of some of the witnesses that they had never seen the prosecutrix at the said place or in the office of Anil Kamra nor had witnessed or seen the prosecutrix in the company of the applicants. No CDR recording or any other incriminating material was seized from any of the applicants. No

doubt, there are antecedents against the applicants, however, none of the cases relate to an offence punishable under Sections 376 or 354 of the Indian Penal Code. Investigation is complete and charge sheet is filed. Role of the present applicants is at par with the co-accused who have been enlarged on bail. Accordingly, the applicants are 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. 50,000/- each with one or two local solvent 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.

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

8. 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.

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

REVATI MOHITE DERE, J.