

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2040 OF 2016

Amar Balasaheb Choudhari

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Ghansham S. Jadhav Advocate for Applicant.

Mr. R. M. Pethe APP for the State.

Ms. Rupali Mali, API Hadapsar Police Station

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : OCTOBER 6, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein was arrested in crime no. 72 of 2016 and was produced before the Magistrate. Applicant was being prosecuted for offence punishable under section 354 (B), 500, 506 (2) r/w 34 of the Indian Penal Code.

2) In crime no. 72 of 2016, it was the case of the prosecution that on 28/01/2016, complainant was to settle the marriage of her daughter. On 27/01/2016, relatives came to her house and had shown the complainant the

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photograph of her daughter along with the present applicant. Upon enquiry, daughter of the complainant had disclosed to her mother that she is being threatened by the present applicant to get married to him and that under coercion the photograph was taken. It is stated that he had also threatened her that he would not let her get married elsewhere.

3) On 12/03/2016, same complainant lodged a report at the police station alleging therein that the present applicant had visited her house on 11/03/2016 and had attempted to assault her and her daughter. On the basis of the said report, crime no. 147 of 2016 was registered at Hadapsar Police Station against the applicant. He was enlarged on bail. That when he was in jail in crime no. 147 of 2016, prosecution filed an application seeking cancellation of bail. The order of the learned Sessions Judge clearly show that according to the investigating officer, the accused is absconding and has not attended the police station. The order of the learned Sessions Judge show that on the day when the application was decided i.e. on 24/06/2016, the counsel for the accused was not present. There is nothing on record to indicate that notice was issued to the applicant and he knew the date of hearing. Admittedly, the bail granted in crime no. 72 of 2016 was cancelled without hearing the

applicant.

4) Applicant is in jail for almost 3 months. Without going into the merits of the matter, applicant deserves to be enlarged on bail as he was earlier granted bail in this crime which was cancelled without hearing him. The parameters of granting bail and cancellation of bail are on different grounds. Hence, applicant deserves to be enlarged on bail. However, it is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.
- (iii) Applicant shall not enter into the jurisdiction of Hadapsar Police Station till the conclusion of the trial.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)