

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2011 OF 2015

Ayesha @ Asha Prem Narayan Malviya ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. Jehangir Khajotia, for the Applicant.

Ms. Vidya Kastle, Spl. PP a/w. Ms. PP. Shinde, for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **21st APRIL, 2016**

P.C.:

. The application is moved for bail. The applicant/accused is facing charges for the offences punishable under Sections 365, 366, 376(2)(a)(i)(ii)(iii), 379, 354-A, 384, 341, 342, 324, 323 and 114 read with 120(B) of the Indian Penal Code in C.R. No. 00/15 of 2015 registered with M.I.D.C. Police station, Mumbai and thereafter the investigation was handed over to DCB.CID, Mumbai vide C.R. No. 56 of 2015. The offence is registered at the instance of prosecutrix Mary Agnis Francis Banard on 23rd April, 2015.

2. It is the case of the prosecutrix that she is a model and wanted to work in Bollywood films. In November, 2014 she was

contacted by one Kavaldeep Singh through social media and he told her that if she will come to hotel Holiday-In, one businessman is ready to give her role in films. Therefore, she met with one Aman Hashmi in hotel Holiday-In. He was asking to come to room, however she refused and when she was about to leave the said hotel with Kavaldeep Singh at that time, some persons arrived there in one Tata Safari. One of them showed their identity card and represented them as police and made both of them to sit in car. Thereafter, they took them to Sakinaka police station, she was taken to second floor of the building. One lady was present there i.e. applicant/accused. Thereafter, the prosecutrix was taken to Sangharsh Nagar police chowki. The applicant/accused accompanied her. Two police persons in civil dress questioned her whether she is in the prostitution business or not. However, the prosecutrix refused but the applicant/accused and the two police persons insisted her that she should confess that she is a victim of prostitution. Thereafter, the applicant/accused and two police persons went away from the police chowki. At that time, there was only one person in the police chowki who accompanied them in Tata Safari. At that time, it was 3.00 a.m. It is the case of prosecutrix that the person who was present in the

police chowki molested her and raped her. After some time, the applicant/accused and other two police persons came and the applicant/accused took away the wrist watch, her ornaments and other articles valued Rs. 4,98,000/- and left her.

3. The learned counsel for the applicant/accused submitted that the applicant/accused is a woman aged 30 years. She is innocent. She is falsely implicated in this case. No articles were recovered at the instance of the applicant/accused. The applicant/accused is in the prison since 24th April, 2015. Hence, she may be released on bail.

4. The learned prosecutor oppose the bail application. She submitted that the applicant/accused represented as a police officer. She was present at the scene of offence continuously. She took the prosecutrix to Sakinaka police station and thereafter to Sangharsh Nagar police chowki where the offence of molestation and rape had taken place. At the time of actual molestation and rape, the applicant left the police chowki and after coming back, she robbed the valuables of the prosecutrix worth Rs. 4,98,000/-. She submitted that only Rs. 23,000/- was recovered at the instance of applicant/accused.

5. Perused the first information report and statement of the prosecutrix. It shows that the applicant/accused was present at the time of incident. She was there alongwith other male co-accused. The applicant/accused took the victim to Sakinaka police station and thereafter to Sangharsh Nagar police chowki and then she left the police chowki. It is the case of the prosecution that one police officer raped the prosecutrix. After returning, the applicant/accused robbed the victim of her ornaments and valuables. Considering the role attributed to the applicant/accused and the fact that the lady applicant/accused is in prison since last one year, I am inclined to grant bail to her on the following terms and conditions:

- a) The bail application is allowed.
- b) The applicant/accused be enlarged on bail upon furnishing PR. Bond in the sum of Rs. 50,000/- with one or two sureties in the like amount;
- c) She shall not tamper with the evidence and shall not pressurize the witnesses;
- d) She shall not indulge into any criminal activity, while on bail;
- e) She shall make herself available and attend all the Court dates regularly;

- f) She shall not abscond and furnish her address to the police station along with address proof;
- g) She shall not leave India without the prior permission of the Court;
- h) Violation of any of the conditions imposed shall amount to cancellation of bail forthwith.

6. Bail application stands disposed of on above terms.

(MRIDULA BHATKAR, J.)