

dik

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

CRIMINAL BAIL APPLICATION NO.2128 OF 2016

Ajay Sukhadeo Shinde

...Applicant

vs

The State of Maharashtra

...Respondent

.....

Mr Ritesh Thobde for the Applicant

Mr Rajan Salvi, APP for the Respondent/State.

.....

***CORAM : SMT SADHANA S.JADHAV, J.
25 NOVEMBER, 2016***

P.C. :

Heard. This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 24 June, 2016 in Crime Registration No. 255 of 2016 registered at Barshi Police Station. The investigation is completed and charge-sheet is filed against the accused for the offences punishable under Sections 376, 313, 511, 323, 504, 506 r/w 34 of Indian Penal Code. It is the case of the prosecution that on 23 June, 2016, one "X" lodged the report at the Police Station alleging therein that she was studying in Shivaji College, Barshi. She was staying in rented premises in the house of Pratap Patil, according to whom she had met the present applicant. She got acquainted with him. When she was going to college, she used to lock her room and keep the keys just outside the room. One day the applicant had entered into her room by using the keys; that he had ravished her against her wish; that

he had sexual intercourse with her on many occasions and she had got pregnancy. On 14.1.2016 she had undergone medical termination of pregnancy. According to her, the applicant was instigated by his parents also and on one occasion she had also been ravished by the brother of the applicant. On the basis of her report Crime Registration No.255 of 2016 is registered against the applicant and all his family members for the offences punishable under Sections 376, 313, 511, 323, 504, 506 r/w 34 of Indian Penal Code.

2 Upon perusal of papers of investigation, it appears that the first informant was in love with the present applicant and that they had sexual intercourse on various occasions. The statement of owner of the room shows that they were living as husband and wife in the rented room of Sahebrao Gaikwad from 11.12.2015 to 29.03.2016, after which they had left the said room and were residing in the rented premises of Pratap Patil. The medical history given by the complainant is that she knows the accused since two years. They had sexual intercourse many times. She had become pregnant in January 2016 for which she had undergone medical termination of pregnancy.

3 During the course of investigation, the statement of Dr. Shubhangi Kadam has been recorded and she has disclosed to the Investigating Officer that on 14.1.2016 the first informant had been to her hospital along with her present applicant. He had posed himself as husband of the informant. They had signed the consent terms as husband and wife and on 16.1.2016 she

had undergone medical termination of pregnancy of "X". It is clear from the record that it was consensual sex. Learned advocate for the applicant submits that the relations between the present applicant and the first informant had gone sour, and therefore, the first informant had lodged report. He has also drawn attention to the consent forms signed by the first informant in Pavan Hospital, Maternity and Nursing Home, of Dr. Shubhangi Kadam which shows the name of the patient as Ms "X" wife of Ajay Shinde. Taking into consideration, the papers of investigation, medical reports, the statement of witnesses and the submissions advances across the bar, this Court is of the opinion that the applicant is to be enlarged on bail. It is made clear that the observations are restricted to the application under Section 439 of the Code of Criminal Procedure and shall not be taken into consideration for the purpose of quashing the F.I.R., discharge application or at the time of trial. Hence, the order.

ORDER

- 1 The application is allowed;
- 2 The applicant be enlarged on bail on furnishing his P.R. Bond in the sum of Rs.25,000/- with one or more solvent local sureties in the like amount;
- 3 The application is disposed of accordingly.

(SMT SADHANA S.JADHAV, J.)