

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2309 OF 2017

Jaywant Supadu Gadhe, Age 25
years, Occ. Labour, R/o. Vivra ... **Applicant**
Khurd, Tq. Raver, District
Jalgaon.

VERSUS

The State of Maharashtra **Respondent**
Through Nimbhora Police ...
Station, Tq. Raver, Dist. Jalgaon

Mr. S. R. Patil , Advocate for the applicant
Mr. K. N. Lokhande, APP for the respondent/State.

CORAM : K. L. WADANE, J.

DATE : 22nd June, 2017

ORDER:

1. Heard Mr. Patil, learned counsel for the applicant and Mr. Lokhande, learned APP for the respondent/State.

2. This is an application under section 439 of the Code of Criminal Procedure in connection with Crime No. 54/2016 registered with Nimbhora City

Police Station, District Jalgaon, for the offences punishable under section 376, 506 of the Indian Penal Code and Section 66E, 67 and 67A of the Information and Technology Act.

3. According to the prosecution, the prosecutrix lodged complaint to the Nimbhora police station with allegations that, accused had developed sexual relations with her by giving assurance of marriage. He has taken photographs with her in compromised position. Thereafter, he has committed sexual intercourse with her about 4-5 times at different places, by threatening to make viral those photographs. It is further alleged that, the applicant compelled the prosecutrix to give an amount of Rs. 11,500/-. On 13.12.2016 applicant uploaded photographs of the applicant and the prosecutrix on the Whats-up of his brother. Hence, the offence is registered as referred above.

4. On perusal of the contents of the first information report, it appears that, prosecutrix is aged about 20 years. Before five months, the applicant called her on mobile. Therefore, the

applicant and the prosecutrix went to one hotel where they had taken lunch. Thereafter present applicant had taken the prosecutrix to village Vivare, where she consumed beer and thereafter applicant had sexual intercourse with her.

5. As per initial version of the prosecutrix in the first information report, nowhere it is contended that the applicant had assured for the marriage and then had sexual intercourse with her. However, in concluding para, she stated about the assurance of marriage.

6. In view of the above things, I am of the opinion that, when the photographs of the applicant and prosecutrix were uploaded by applicant on the whats-up of his brother, then complaint came to be lodged against the applicant. Before that, the applicant had sexual intercourse with the prosecutrix for several times. In such circumstances, prima-facie it seems that the prosecutrix was consenting party to the sexual act. Furthermore, the applicant was available for custodial interrogation. Now, the investigation is

over and charge-sheet is filed. In such circumstances, I am of the opinion that, the applicant is entitled for bail. Hence, following order :

O R D E R

- i. The applicant shall be released on bail in connection with Crime No.54/2016, registered with Nimbhora Police Station District Jalgaon, on his executing P.R. Bond of Rs. 25,000/- [Rs. Twenty five thousand only] with one solvent surety in the like amount.
 - ii. The applicant shall not contact the prosecution witnesses in any manner and shall not tamper with the evidence of prosecution.
6. Criminal applications disposed of.

(K. L. WADANE, J.)