

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

BAIL APPLICATION NO.129 OF 2017

Inayat Abdul Majid Hurjuk Applicant

versus

State of Maharashtra ... Respondent

Mr.Shirish Gupte, Senior Advocate i/b. Karl Rustomkhan,
Advocate for the Applicant.

Mr.Arfan Sait, APP for the State/Respondent.

Dy.S.P.-Ms.Pranjali Sonpane (SDPO, Mahad Police Station,
Raigad).

**CORAM : MRS.MRIDULA BHATKAR, J.
DATE : 06th FEBRUARY, 2017.**

P.C. :

1. This application is moved for bail by the applicant/accused. The applicant/accused is prosecuted for the offences punishable under sections 376(2)(n), 328, 313 and 506 of the Indian Penal Code and under section 67 of the Information Technology Act, 2000 in C.R.No.13/16 of Mahad Police Station. The offence is registered at the instance of prosecutrix, who is 29 years old, on 18/02/2016.

2. It is the case of prosecution that the prosecutrix is a working lady. In the year 2014 she was acquainted with the applicant/accused, who is 49 years old. In November 2014 the applicant/accused administered stupefying drug to the prosecutrix in his car and thereafter without her consent he had sexual intercourse with her and he also made a video clip of the same intercourse and thereafter started blackmailing the prosecutrix. He threatened her that he would upload that video clip on internet and he called her to lodge at Hotel Venkat Residency on 25/12/2014 and thereafter he had again assaulted her sexually. Thereafter she remained pregnant and then he forced her to terminate the pregnancy in April 2015. Thereafter she gave complaint. The applicant/accused was arrested on 01/09/2016. Hence this bail application.

3. The learned senior counsel for the applicant/accused has submitted that the applicant/accused is innocent. He has not committed any offence of rape against the prosecutrix. He

submitted that the prosecutrix was 29 years old in the month of November 2014. He further submitted that at the time of giving complaint as per the case of prosecution she was major. However, there is considerable delay of 1 ½ years in lodging FIR. The learned senior counsel further submitted that except words of the prosecutrix, there is no evidence against the applicant/accused. No video clips were recovered from the applicant/accused.

4. He further submitted that the statement of Ram Prasad Yadav was recorded on 09/03/2016 and that is hearsay. He further submitted the statement of Amol Balasaheb Gadakh though disclosed that a room in Hotel Venkat Residency was booked on 25/12/2014 by the applicant/accused, there is no other evidence whether he was accompanied with the prosecutrix or not.

5. The learned prosecutor while opposing bail application submits that there is sufficient evidence against the

applicant/accused. He further argued that this applicant/accused has submitted that the complainant has stated that she was exploited by him under the threat. She was undergone a forcible medical termination of pregnancy. The report of medical termination of pregnancy shows that there is registration of hotel Hotel Venkat Residency and the applicant/accused has booked a room and stayed there. Therefore the applicant/accused not to be released on bail.

6. The prosecutrix was 29 years old at the time of complaint in the year 2016. So she was 27 years old in 2014. She was a working woman and she has completed her course in Aviation Management (Diploma) in Tradewing Institute, Pune, in the year 2006. Thus she is an educated lady. There is nothing to show that the applicant/accused has blackmailed her and therefore she surrendered to his sexual demands without consent. Except the words there is nothing to show that she was continuously sexually exploited. After considering contents in the FIR so also the delay in lodging complaint, prima facie,

unexplained delay in lodging FIR and in view of the order of this Court in *ABA No.2221/16, Akshay Manoj Jaisinghani, versus, State, decided on 09/01/2017*, I am inclined to grant the bail with following terms and conditions:

ORDER

- (i) Application is allowed.
- (ii) The applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/- with one or two solvent sureties in the like amount.
- (ii) The applicant/accused shall cooperate with the Investigating Officer and attend all the Court dates.
- (iii) The applicant/accused shall not contact the prosecutrix or shall not pressurize her.
- (iv) The applicant/accused shall not indulge into any criminal activity.

7.. The application stands disposed of on above terms.

(MRIDULA BHATKAR, J.)