

Anand

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

BAIL APPLICATION No.228 OF 2017

Amit Annasaheb Kurne

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr.A.P.Mundargi, Senior Counsel i/b. Mr.Kuldeep Patil, for the
Applicant

Mr.Deepak Thakare, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 06.04.2017

P.C.

. Heard learned senior counsel for the Applicant and
the learned APP for the Respondent – State.

2. Learned senior counsel seeks leave to amend to
delete name of the prosecutrix. Leave granted. Amendment to be
carried out forthwith.

3. By this Application, the Applicant seeks his
enlargement on bail in connection with C.R.No.257 of 2016
registered with the Miraj City Police Station for the alleged
offences punishable under Sections 376, 341, 506 of the Indian
Penal Code.

4. According to the complainant/prosecutrix, she was married in 2010 and was residing in Karnataka with her husband and five year old daughter. According to the prosecutrix, on 16.06.2016, she left her matrimonial home, as her husband was suspecting her character and was ill-treating her. She has stated that she went to Miraj where she stayed in a 'mutt' with her daughter on 16th night. She has stated that on 17.06.2016 at about 08.30 a.m. when she was going to the house of her relative, the Applicant saw her and offered to give her a lift. She has stated that the Applicant took her to his farm house at Kurne mala, where she was confined and raped. Thereafter, the Applicant is alleged to have taken her to the family house on 17.06.2016 in the evening. The Applicant is alleged to have again confined her in the house from 17th to 19th June, 2016 and is alleged to have repeatedly raped her. According to the prosecutrix, during the said period, Applicant's parents were not at home. On 20.06.2016, after the Applicant's parents arrived, the prosecutrix disclosed the same to them and thereafter, left the Applicant's home. The prosecutrix lodged an FIR on 06.07.2016 alleging the aforesaid offences as against the Applicant, pursuant to which he was arrested.

5. Learned senior counsel for the Applicant submitted that the allegations made by the prosecutrix against the Applicant are false and are not borne out by the record. He submitted that after the complainant left her matrimonial home from Karnataka, a missing complaint was filed by her husband with the Sadalga Police Station, Karnataka on 18.06.2016. He submitted that pursuant to the said missing complaint, the statement of the complainant(prosecutrix) was recorded. He relied on the report which is on page No.124 of the Application. He submitted that the report of the Sadalga Police Station shows that the complainant (prosecutrix) had left her matrimonial home on 16.06.2016 and had gone to Miraj, had stayed with her relative i. e. Mokade and had come to the police station on 19.06.2016. He submitted that no allegations have been made by the complainant (prosecutrix) to the Sadalga Police Station with respect to what allegedly transpired between 17th to 20th June, 2016. He further submitted that after the aforesaid FIR, being C.R.No.257 of 2016 was registered by the complainant (prosecutrix), alleging rape, the Applicant's mother lodged a complaint on 06.08.2016 with the Miraj Police Station, as against the prosecutrix. It appears that the said complaint lodged by the Applicant's mother is for the offences punishable

under Sections 452, 384, 504, 506 of the Indian Penal Code. He relied on page No.135 of the Application in support of his submission. In the said FIR, the Applicant's mother has alleged that the complainant (prosecutrix) had threatened them that she would lodge a case against them, if they tried to remove her from Kurne mala and demanded that they should pay her Rs.1,000/- daily, for her maintenance or else she would commit suicide or in the alternate had demanded Rs.10,00,000/-. On 07.08.2016, the complainant/prosecutrix committed suicide, pursuant to which, the prosecutrix's brother lodged an FIR as against the Applicant and his parents with the Miraj City Police Station, alleging offences punishable under Sections 306, 506 r/w.34 of the Indian Penal Code. Learned senior counsel submitted that the said complaint shows that the prosecutrix was staying at Kurne mala when she committed suicide.

6. Perused the papers. The incident in question is alleged to have taken place between 17.06.2016 to 20.06.2016. The FIR in the said case was lodged by the prosecutrix on 06.07.2016 and the prosecutrix committed suicide on 07.08.2016. A perusal of the inquiry report of the Sadalga Police Station, Karnataka shows that the prosecutrix in the said case

was before the Sadalga Police Station on 19.06.2016, alongwith the parents where her statement was recorded. It appears that after registration of the aforesaid offences, the prosecutrix was residing at Kurne mala i. e. Applicant's farm house. It also appears, that the Applicant's mother had lodged a complaint as against the prosecutrix for extortion, criminal intimidation and for house trespass. The said C.R. was registered on 06.08.2016 and the complainant committed suicide on 07.08.2016. The Applicant has been enlarged on bail in the suicide case.

7. Considering the peculiar facts of this case and considering the fact that investigation is complete and charge sheet is filed, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions:-

O R D E R

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

(ii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iv) The applicant to cooperate with the conduct of the trial.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)