

3. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-64 of 2016 (out of CCTNS No. 86 of 2016) registered with the Killa Police Station, for the alleged offences punishable

under Sections 376(1)(2), (n) and 384 r/w 34 of the Indian Penal Code and under Section 66(e) of the Information Technology Act.

4. The principal submission of the learned counsel for the applicant is that the applicant was not present in India in 2012 when the alleged offence is stated to have taken place. On the last date, the learned counsel for the applicant had tendered the original passport of the applicant, to the learned A.P.P, to enable the Investigating Officer to verify the said fact, as to whether the applicant was present in India at the relevant time. The Investigating Officer has verified the entries in the passport. Learned A.P.P states that after going through the entries in the passport, it is evident that the applicant was not in India during the period from 7th December, 2011 to 26th February, 2014. Learned A.P.P has today, after verification, returned the original passport to the counsel for the applicant in the Court. Learned counsel for the applicant acknowledges the receipt of the said original passport of the applicant.

5. Perused the papers. According to the prosecution, Shahid was acquainted with the father of the complainant. According to the

complainant, sometime in 2012, the accused No. 1-Shahid came to the complainant's house and told her that her father had called and hence, she opened the door. She has alleged that the accused No.1-Shahid entered the room and administered her some drink, as a result of which, she became unconscious and thereafter committed sexual intercourse with her. According to the prosecutrix, the accused No. 1-Shahid disclosed to her that with the help of the applicant-Riyaz, he had prepared a video clip of the said act between them and had threatened to show the same on the net. According to the complainant, the said video clip of the act was given by the applicant to the complainant's father. Admittedly, there are no allegations of Section 376 against the applicant. Even otherwise, the entries in the passport *prima facie* shows that the applicant was not in India during the period from 7th December, 2011 to 26th February, 2014, whereas, the alleged act is stated to have been committed sometime in 2012.

6. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 10,000/- with one or two sureties in the like amount;
- (ii) The applicant shall cooperate with the conduct of the trial and shall attend the trial Court on the dates given by the trial Court;
- (iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall not leave the Country, without the prior permission of the trial Court;
- (v) The applicant shall inform his latest place of residence and mobile contact number 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;

7. The application is accordingly disposed of.
8. 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.
9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.