

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

CRIMINAL BAIL APPLICATION NO. 288 OF 2016

Mohammad Waliahmed Mohammad Moqimuddin Shaikh.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. S.K. Ali i/b. A.A. Siddique & Associates, advocate for Applicant.

Mrs. P.P. Shinde, APP for State.

Mr. Uddhav S. Bhutekar, PSI, Vanrai Police Station.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : MARCH 6, 2017**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 25/8/2015 in C.R. No. 265 of 2015 registered at Vanrai Police Station. The investigation is completed and charge-sheet is filed

against the present applicant under section 328, 376(N), 506 of the Indian Penal Code and section 67(A) of the Information Technology Act, 2005.

3 It is the case of the prosecution that the applicant herein is working in L & T company. The complainant Mrs. X lodged a report at the police station on 24/8/2015 alleging therein that she works as nurse in Saikrupa Hospital since 2015 and her husband is working in private company. In October, 2014 she was deputed to work on the site of L& T for giving first-aid to the workers. She had met the present applicant. They had got acquainted with each other. In the month of January, February 2015 the applicant had called upon the complainant. While they were chitchatting, he had offered cold drink. After consuming cold drink, she had started feeling dizziness and had therefore, slept at the same place. She regained consciousness after more than 3 hours. However, she continued to feel dizzy. Next day when she had resumed her work, she had seen the present applicant brandishing his cell phone at the site of the work. Upon

enquiry, he had disclosed that on earlier day there was physical intercourse between them when she was feeling dizzy and the same has been recorded by him. That he had started threatening and blackmailing her on the ground that he had video tapes as well as images captured in his cell phone. Under the threat he had coerced her to have sexual intercourse on more than 2 to 3 occasions. It is also alleged that on 24/8/2015 Dr. Sushila working in Saikrupa Hospital had received phone call from present applicant, wherein he had disclosed that the complainant owes to him Rs. 3 Lakhs to him. The complainant had then approached Dr. Sanjeev Dua and disclosed the circumstances in which she was being blackmailed by the applicant. Thereafter, they had come to the police station and lodged a report.

4 Papers of investigation would indicate that the applicant and the complainant were in contact with each other. The applicant had threatened her that he would expose her to social obloquy on the social media and also disclose to her husband and other responsible

persons about her conduct. Messages are not just obscene and humiliating, but they would strike the very honour and dignity of the complainant. It is clear from the messages that the applicant was coercing her to succumb to his orders and desires.

5 Learned Counsel for the applicant submits that physical relations between the applicant and the complainant are consensual in nature. They were exchanging messages, which showed that they were in contact with each other. It is further submitted that the complainant owed huge amount to the applicant and that only because she did not wish to return the same, she had lodged the FIR. It is also submitted that the applicant had disclosed to the complainant that in the eventuality that she does not repay the amount, he would be constrained to disclose all the facts to her husband. The applicant had called upon the hospital authorities.

6 The learned APP submits that it is clear that by administering some spurious substance, the applicant had coerced her to have

sexual intercourse and the physical relations were under coercion and were not voluntary and therefore, not consensual.

7 The investigating agency has filed supplementary charge-sheet on 9/2/2017 placing on record the transcript of messages exchanged between the complainant and the applicant and also the C.A. report. The filing of supplementary charge-sheet is disputed by the learned Counsel for the applicant and it is submitted by the learned Counsel that no supplementary charge-sheet is filed.

8 Be that as it may, upon perusal of the material on record, this Court is of the opinion that this is not a case for grant of bail. Hence, application being sans merits stands rejected and disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)