

Anand

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

BAIL APPLICATION NO.999 OF 2017

Anup Kumar Patil .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.U.R.Mankapure, Advocate, for the Applicant
Mr.Y.M.Nakhwa, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 23.06.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.578 of 2016 registered with the Vijapur Naka Police Station, District – Solapur, for the alleged offences punishable under Sections 376, 344, 363, 323, 506 r/w.34 of the Indian Penal Code.

3. Learned counsel for the Applicant

states that the Complainant/Prosecutrix was about 22 years of age and the Applicant about 25 years. He submits that it a case of love affair and that the Applicant and the Complainant had run away from home and had got married. Learned counsel for the Applicant has tendered a compilation of documents in support of the same i. e. photographs of marriage between the Complainant and the Applicant as well as the notarized document of marriage having taken place at Nrusinhawadi, Sangli. Learned counsel for the Applicant submits that one of the photographs shows that the Complainant had attended a family function of the Applicant's family.

4. Learned APP opposes the Application. On the last date i. e. 05.05.2017 certain documents i. e. notarized affidavit executed by both the Applicant as well as the Prosecutrix, Aadhar Card of the Applicant, their Marriage

Certificate and driving license of the Prosecutrix were handed over to the learned APP, who in turn handed over the same to the investigating officer. The investigating officer was directed to verify the same. However, no officer has come to give instructions to the learned APP.

5. Perused the papers. The prosecutrix was about 22 years of age and was studying in the 4th year of B.A.M.S. course at the relevant time and the Applicant was about 25 years of age. It is alleged by the prosecutrix, that the Applicant who was running a canteen in the college, where she was studying, used to follow her. She has stated that the Applicant had obtained her mobile number and would visit and would follow her. She has further stated that on one day, the Applicant told her that he wanted to marry her or he would defame her and that he even threatened to commit suicide. She has

stated that on 02.07.2015, the Applicant assaulted her, pursuant to which her parents had decided to transfer her to some other college. According to the prosecutrix, on 02.11.2016, the Applicant asked her to come out of her house and threatened to meet him. She has stated that when she came out, the Applicant pulled her inside the car and took her away. She has stated that the Applicant took her to his uncle's farm at Miraj, where he committed forcible sexual intercourse with her from 02.11.2016 to 08.11.2016. She has further alleged that on 08.11.2016, the Applicant took her to Court in Kurundwad, where he made her sign a notarized document, after which he took her to his residence at Jaysingpur. She has stated that from 08.11.2016 to 01.12.2016, she was forcibly detained by the Applicant and was compelled to reside with the Applicant and his parents. She has stated that on 01.12.2016, when she was alone at home, she tried to escape, however, was

unsuccessful. She has stated that on 02.12.2016, she called her father from the Applicant's father's mobile and disclosed to him the location, pursuant to which the prosecutrix's father came to the said place alongwith the police and brought her back to Solapur. On 18.12.2016, the Complainant disclosed the incident for the first time to her parents and on 19.12.2016, the aforesaid FIR was registered as against the Applicant. It appears that although the prosecutrix was rescued on 04.12.2016, she had not disclosed the incident to her parents till 08.12.2016. Prima facie, it appears that no investigation has been done with regard to the photographs, the notarized document and the Marriage Certificate. Be that as it may, whether it is a case of consent or not, is a matter which will be decided by the trial Court. The Applicant has been in custody since 19.12.2016. Investigation is complete and charge-sheet is filed.

6. Considering the aforesaid, 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 report to the investigating officer of Jaysingpur Police Station, Kolhapur on the **first Monday of every month** between **10.00 a.m. to 12.00 noon**;
- (iii) The Applicant shall not enter the jurisdiction of Solapur District till the conclusion of the trial, except for the purpose of attending the Court, on the dates given by the trial Court;
- (iv) The Applicant shall not tamper with the evidence or attempt to influence or contact the prosecutrix, witnesses or any person concerned with the case;

(v) 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 Jaysingpur Police Station, Kolhapur and the Vijapur Naka Police Station, Solapur;

(vi) The Applicant shall file an undertaking with regard to Clauses (ii) to (v) within two weeks of his release in the trial Court;

(vii) The Applicant to cooperate with the conduct of the trial;

(viii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

7. The Application is allowed in the aforesaid terms and 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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)