

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

CRIMINAL BAIL APPLICATION NO.1027 of 2017

Shashikesh Hawaldar Yadav

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Aditya R. Mokashi, for the applicant.

Mr. A. R. Kapadnis, APP for the respondent-State.

PSI S.S. Chikhalikar, Gorai Police Station, Mumai.

CORAM : PRAKASH D. NAIK, J.

DATE : 20 JUNE 2017

P.C. :

1. This is an application for bail in connection with C.R. No.33 of 2016 registered with Gorai Police Station, Mumbai for the offences punishable under sections 376, 376(2)(n), 328, 313, 406, 504, 506 of IPC. The FIR was lodged on 6 November, 2016.

2. The prosecution case is that the victim was acquainted with the applicant since 2013. In the year 2013, the victim and the applicant had visited one resort. Room was booked by the applicant / accused. The accused spiked the drink of the victim and had sexual intercourse with her. Thereafter there was intimate relationship between the

victim and the applicant. It is further alleged that the victim was pregnant and had undergone abortion. It is further alleged that the applicant / accused had promised that he would marry the victim and had indulged into physical relationship with her. It is also alleged that there was money transactions between the complainant and the applicant and she has parted money.

3. Learned advocate for the applicant submitted that he has been falsely implicated in this crime. Reading FIR as it is, it appears that there was consensual relationship between the victim and the applicant.

4. It is submitted that the FIR was lodged on 26 November, 2016 although it is alleged that the first instance on spiriting the drink and having physical relationship had occurred in the year 2013. it is further submitted that there is no evidence of termination of pregnancy. The applicant in custody since 2 March, 2017 and the chargesheet has been filed. Further custody of the applicant is not necessary.

5. Learned APP opposed the application, he submitted that on false promise of marriage, the applicant had sexual intercourse with

the victim. It is further submitted that the complainant had parted with money to the applicant which is misappropriated by him

6. I have perused the documents on record. Apparently, there appears to be consensual sexual relationship. The complainant and the applicant had intimate relationship since 2013. Although, the first incident had occurred in the year 2013, wherein it is alleged that the accused had spiked the drink of the victim and had sexual intercourse with her, no complaint was lodged and for the first time the allegation is being made in the FIR which is lodged in the year 2016. the Investigation is complete and the chargesheet has been filed. Further custody of the applicant is not necessary. In the light of the aforesaid circumstances, the application for bail can be allowed.

7. Hence, I pass the following order;

:: ORDER ::

- (i) The applicant is directed to be released on bail in connection with C.R. No.33 of 2016 registered with Gorai Police Station, Mumbai, the applicant may be released on bail on furnishing P.R. Bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only.) with one or more sureties in the like amount.

- (ii) The applicant is directed to report to Gorai Police Station, Mumbai once in a week on every Saturday between 11.00am to 1.00 pm till further orders.
- (iii) The applicant should not tamper with the witnesses.
- (iv) Application is disposed of.

[PRAKASH D. NAIK, J.]