

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1326 OF 2017**

Dajiram Dagdu Kalel

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. R. V. Bansode i/b Mrs. Sheetal M. Ubale for the Applicant

Mr. Rajan Salvi, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 11th JULY, 2017

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 4 of 2017 registered with the Mhaswad Police Station, Satara, for the alleged offences punishable under Sections 376 and 366 of the Indian Penal Code.
3. Learned Counsel for the applicant submits that the relations between the complainant and the applicant were consensual. He submits that the complainant had run away with the applicant and that both stayed at different places and at no point of time, the complainant raised any

objection. He submitted that the applicant and the complainant were both adults at the relevant time.

4. Perused the papers, in particular, the statement of the prosecutrix. The prosecutrix aged 29 years has stated that she was married 10 years prior, however, had returned home within 6 months of her marriage, as her husband was a drunkard. She has stated that the applicant was working as a driver on her brother's vehicle since two years, however, later, he stopped working as a driver. She has stated that she came to know the applicant and that the applicant disclosed to her that they both should get married. She has alleged that on 13th December, 2016, she met the applicant, who asked her to accompany him and that they would get married. She has stated that she accompanied the applicant on his motorcycle and they went to Phaltan and from there to Lonavala. She has stated that the applicant had disclosed to her that they would stay in a lodge and on the next day, they would get married in a Mandir. She has stated that after dinner, the applicant had physical relations with her, against her wish. She has further stated that on 14th December, 2016, at about 10:00 a.m., the applicant and his friend went out to check for a room. She has

stated that thereafter, the applicant returned back and told the complainant that they were going to stay in their own room and accordingly, they started residing there. She has stated that when she questioned the applicant as to when they were getting married, he disclosed to her, that they would get married within two to three days. She has further stated that when the applicant's money was over and they had no money to spend, the applicant sold his motorcycle to meet their expenses. According to the complainant, she realised that the applicant was postponing getting married to her and as such, had cheated her. Accordingly, she returned back home on 9th January, 2017. The applicant is aged about 32 years and the prosecutrix at the relevant time was about 29 years. Whether or not the relations were by consent or forcible, is a matter which will be decided by the trial Court. The applicant has been in custody since 10th January, 2017. Investigation is complete and charge-sheet is filed.

5. 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. 15,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Monday of every month between 10:00 a.m. to 11:00 a.m. for a period of one year;
- (iii) The applicant shall not tamper the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) 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;
- (v) The applicant to cooperate with the conduct of the trial and to attend the trial Court on every date;
- (vi) 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.

6. The application is accordingly disposed of.

7. 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.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.