

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

CRIMINAL BAIL APPLICATION NO.1461 OF 2017

Mandal Saifulla Shaikh

...Applicant

Versus

The State of Maharashtra

...Respondent

I. S. Thakur i/b. Global Juris Consults for the applicant.
Mr. Amit Paljar, APP for the respondent - State.

CORAM : PRAKASH D. NAIK, J.
DATE : 19 JULY, 2017

P.C. :

1. The applicant seeks bail in connection with C.R. No.9 of 2017 registered with Byculla Police Station, Mumbai for the offence punishable under section 376 of IPC. The applicant is arrested on 9th June, 2017.

2. The prosecution case is that the complainant who is aged about 29 years was acquainted with the applicant during the course of their train journey from West Bengal to CST, Mumbai. The applicant proposed complainant for marriage during the said train journey. The complainant asked for mobile of applicant with a view to make call to her relative. The complainant thereafter got a call from the

applicant on the next day. Thereafter, friendship was developed between both of them. The applicant promised the complainant that he would marry her. On account of promise, the complainant had consented for sexual relationship. The applicant then informed complainant that he is already married having children. The complainant was shocked with the said disclosure. Thereafter, FIR was lodged.

3. Learned advocate for the applicant submitted that the applicant is in custody from the date of his arrest and further detention is not necessary. It is submitted that taking the prosecution case as it is, the complainant and applicant had physical relationship with consent of each other. It is submitted that although the applicant who is permanent resident of West Bengal, he is settled in Mumbai since last 10 years as he is employed in Mumbai.

4. Learned APP submitted that false promises were made by the applicant and he induced complainant to have physical relationship. The applicant did not fulfill promise of marriage and thereby committed offence under section 376.

5. Perused FIR and the order passed by the Sessions Court. It appears that both of them were acquainted with each other and relationship was consensual. The applicant is in custody from the date of his arrest and further detention is not necessary. Therefore, I pass following order;

:: ORDER ::

- (i) Bail Application No.1461 of 2017 is allowed.
- (ii) The applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only.) with one or more sureties in the like amount.
- (iii) The applicant is directed to report Byculla Police Station, Mumbai once in a week on every Saturday between 11.00 am to 1.00 pm till filing of chargesheet and thereafter once in a month on the first Saturday of the month between 11.00 am to 1.00 pm.
- (iv) The applicant shall furnish local surety.
- (v) The applicant shall also furnish residential address to the investigating officer.
- (vi) The applicant shall not tamper with the evidence / prosecution witnesses.
- (vii) Application stands disposed of.

[PRAKASH D. NAIK, J.]