

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1474 OF 2017**

Chetan Balkrishna Borade Applicant
vs
State of Maharashtra .. Respondent

Mr.Vikram Chavan a/w Ms.Sheetal Thakur, Ms.Sonia
Redkar I/b C.K.Legal for Applicant
Mr.Deepak Thakare APP for State
Mr.C.D.Koli API Mahatma Phule Police Station, Kalyan

**CORAM : PRAKASH D.NAIK, J
DATE: 21 JULY 2017**

P.C.

1. This is an Application for bail arising in C.R.No,I-415 of 2016 registered with Mahatma Phule police station, Kalyan. The FIR was registered for the offence under sections 376, 420 and under sections 498A 323,504,209 IPC read with section 34 IPC.

2. The prosecution case is that the informant got married to the accused no.1 on 25.10.2010. However, the said accused used to torture the informant and used to engage in forceful sexual intercourse. The informant thereafter decided to get married again and conveyed her decision of getting married

again to her friend. The informant 's friend gave the telephone number of the Applicant-accused to the informant. Accordingly, the informant contacted the Applicant by sending her photograph and conveyed to meet him and get engaged in wed-lock. Both of them showed interest in getting married. In June 2016 the Applicant and the informant decided to go to Titwalla temple for seeking blessings. The Applicant instead of going to the temple indulged in sexual intercourse with the informant by giving her false assurance of marriage. The accused continued establishing sexual relationship from the month of March 2016 at various places. The Applicant demanded money from the informant under one pretext or the other and she had parted an amount of Rs.92,000/- in total to the applicant-accused. Both of them decided to live-in-relationship and for that purpose hired a room at Karjat. The mother of the Applicant visited their house in June 2016 and convinced the Applicant to accompany her for a period of 15 days as father of the Applicant was unwell and was required to undergo heart surgery. Since the promise of marriage failed, FIR was lodged. In the FIR, allegation is also made by the Complainant of being ill-treated and therefore the

husband committed offence under section 498A of the IPC.

3. The Applicant preferred Application for bail before the Sessions Court which has been rejected and hence the present application is preferred by the Applicant before this Court.

4. Learned Advocate for the Applicant submits that taking the allegations in the FIR as it is, the relationship between the Applicant and the Complainant was consensual. In the complaint itself the Complainant has stated that both of them had sexual relationship on various occasions and at various places. It is submitted that the Complainant was residing with the Applicant and both of them were in live-in relationship. The Complainant has not sought divorce from her husband however she was intending to solemnise second marriage as alleged in the FIR. It is submitted that taking into consideration the nature of the relationship between the Complainant and the Applicant, bail may be granted to the Applicant. It is submitted that investigation is completed and charge sheet is already filed.

5. The learned APP has relied upon the observations of the Sessions Court made while rejecting the application for bail.

6. I have perused the charge sheet which has been annexed to the Application. Admittedly, the Complainant and Applicant had physical relationship at various places and on various occasions. It was a consensual relationship. The Complainant wanted to solemnize second marriage and had approached the Applicant in that regard and thereafter they started residing together. The investigation is completed and charge sheet has been filed.

7. Considering the nature of relationship between the Applicant and the Complainant and allegations mentioned in FIR, bail can be granted to the Applicant. Hence, following order :

ORDER

- (i) Bail Application No.1474 of 2017 is allowed;
- (ii) Leave to amend middle name of the Applicant;
- (iii) The Applicant is directed to be released on bail on

furnishing P.R.bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

(iv) The Applicant is directed to report at Mahatma Phule Police Station once in a month on **Ist Saturday between 11.00 am. to 1.00 p.m;**

(v) The Applicant is permitted to furnish cash security in the sum of Rs.25,000/- for a period of four weeks.

{PRAKASH D.NAIK, J}