

Anand

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

BAIL APPLICATION NO.1804 OF 2017

Bhausahab Uttam Wagh .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.R.D.Suryawanshi, Advocate, for the Applicant
Mr.V.V.Gangurde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 28.08.2017

P.C.

. Heard learned counsel for the parties.

2. Learned counsel for the Applicant seeks leave to amend to delete the name of the prosecutrix. Leave granted. Amendment to be carried out forthwith.

3. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.30 of 2017 registered with the Vanrai Police Station, for the alleged offences punishable under Sections 376, 363, 323, 504, 506(2) of the Indian Penal Code.

4. Learned counsel for the Applicant submits that the relations, if any, between the Applicant and the prosecutrix were consensual. He submits that the Applicant and the prosecutrix were related to each other and that the Applicant would visit their house often. He submits that the Applicant and the prosecutrix's friendship developed into a love affair, pursuant to which the prosecutrix started accompanying the Applicant to different places. He submitted that investigation is complete and charge-sheet is filed.

5. Learned APP submits that the although the prosecutrix was 19 years of age, when the complaint was lodged, the relations started when the prosecutrix was about 17 years of age.

6. Perused the papers. The Applicant is related to the prosecutrix. A perusal of the prosecutrix's statement shows, that she met the Applicant for the first time in 2014 in Yeldari., Taluka-Jintur, District-Parbhani. She has stated that the Applicant had also come to Mumbai later and had stayed with them for a month, pursuant to which they became friendly. She has further stated that after a year i.e. in December, 2015, the Applicant came and stayed with them in Mumbai. She has stated that during this period, their friendship developed into a

love affair and that they started meeting each other, outside the house. She has alleged that in February, 2016, the Applicant took her to Aarey Colony, Goregaon and professed his love for her and disclosed to her that he wanted to marry her. She has alleged that the Applicant also demanded physical relations and when the same was refused, the Applicant disclosed to her that they were going to get married soon, pursuant to which, they had physical relations. She has further alleged that the Applicant started calling her frequently and assured her and started demanding physical relations, as he was going to get married to her. She has alleged that on 05.02.2017, when they met at Goregaon, the Applicant checked her mobile to find out, who was calling her on her mobile, pursuant to which, there was a quarrel between them. She has alleged that the Applicant assaulted her with fist blows on her face. She has stated that the Applicant demanded physical relations and when she refused, had forcible physical relations with her. It is also alleged that the Applicant threatened her with dire consequences, if she disclosed the incident to any person. It appears that the prosecutrix was about 17 years and two months at the relevant time, when the relations started between her and the Applicant and 19 years when she lodged the complaint. Investigation is complete and charge-sheet is filed.

7. In the peculiar facts of this case, further detention of the Applicant is not warranted. Accordingly, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions:-

ORDER

- (i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs.20,000/-** with one or two sureties in the like amount;
- (ii) The Applicant shall report to the investigating officer of the concerned police station on the 1st Saturday of every month between 10.00 a.m. to 12.00 noon till the framing of charge;
- (iii) The Applicant shall not tamper with 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 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 concerned Police Station;
- (v) The Applicant to cooperate with the conduct of the trial.

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

accordingly disposed of.

9. 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.)