

Anand

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

BAIL APPLICATION NO.1944 OF 2017

Ramashray Basantlal Yadav .Applicant

Vs.

The State of Maharashtra .Respondent

Ms Falguni Brahmabhatt, Advocate, for the Applicant
Mr.R.M.Pethe, 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.
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.159 of 2017 registered with the Goregaon Police Station, Mumbai, for the alleged offences punishable under Sections 376(2)(n)(1), 420, 506(ii) of the Indian Penal Code.

4. Learned counsel for the Applicant states that the relations

between the prosecutrix and the Applicant were consensual. She submitted that it is the prosecution case, that the Applicant had promised the Complainant marriage, and thereafter, had refused to get married, pursuant to which, the complaint was lodged. She submits that investigation is complete and charge-sheet is filed.

5. Learned APP opposes the Application.

6. Perused the papers, in particular, the statement of the prosecutrix. It appears that the Applicant and the prosecutrix met each other some time in early 2017. It appears that the Applicant and the prosecutrix exchanged their mobile numbers and started contacting each other on their mobiles. According to the prosecutrix, the Applicant promised marriage and had physical relations with her. She has stated that during the period February, 2017 to April, 2017, the Applicant would come to her house daily and that they were spending the nights together. She has stated that their affair was known to her friends. She has stated that on a couple of occasions i. e. in March, 2017, the Applicant had physical relations with her. She has stated that thereafter, on 02.04.2017, the Applicant informed her that he was not keeping well and hence, was going to his uncle's house at Malad. She has further

stated that on 03.04.2017, the Applicant called her and disclosed to her that he was in hospital and taking treatment. She has stated that when she offered to come to the hospital, the Applicant asked her not to come to the hospital and that he would meet her after he was discharged. She has further stated that on 05.04.2017, the Applicant got discharged from the hospital and called her on 06.04.2017 and informed her, that he was going to the village and also refused to marry her. Pursuant thereto, the aforesaid FIR was lodged. Investigation is complete and charge-sheet is filed. Whether the relations were consensual or not, is a matter which will be decided by the trial Court. The Applicant is in custody since April, 2017.

7. Considering the aforesaid, 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.25,000/-** 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 **first 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 file an undertaking with regard to Clauses (ii) to (iv) in the trial Court within one week of his release.

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.)