

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2472 OF 2017

Mohammed Ashraf Sultan Selia @ Aman ...Applicant
Shaikh

Versus

The State of Maharashtra ...Respondent

Mr.C.K.Pendse i/b Sameer M. Mangaonkar for the applicant.

Mr. S.V.Gavand, APP for the State

Mr.Kiran Manik Avhad P.C.

CORAM: A.M. BADAR, J.

DATED: 20th NOVEMBER 2017

PC:-

1. The applicant/accused in Crime No. I-210 of 2017 registered with Police Station Manikpur,Thane for the offences punishable under Sections 328, 376, 354(D), 509 of the Indian Penal Code, by this application is seeking his release on bail during pendency of the trial.

2. Heard the learned advocate appearing for the applicant/accused. He drew my attention to the FIR and submits that the FIR is delayed by 8 months. The learned advocate further argued that, whatever was happening

between the present applicant and the first informant was conscientious in nature. The learned advocate further pointed out that the complaint dated 8.2.2017 made by the present applicant against the first informant relating to the extortion and argued that the FIR came to be lodged merely because the applicant/accused had lodged complaint of extortion against the first informant.

3. The learned APP opposed the application by contending that in fact the husband of the first informant had approached the National Women Rights Commission and then the FIR and the crime in question came to be registered by recording her statement. The learned APP further submitted that the cell phone was containing obscene material and it was taken in possession by the first informant and was again taken back by the present applicant. The learned APP further drew my attention to the tag line of the Social Networking account of the present applicant and contended that the crime in question is serious.

4. As per statement of the learned APP, the charge-sheet is being filed within a week. This implies that the investigation of the crime in question is over. The FIR is dated 5.7.2017 though the date of registration of the offence is 11.07.2017 the prosecutrix is a married lady having three children from her husband. The FIR lodged by her itself reveals that her husband was out of the State and at his workplace at Gujrahat for the period from November 2014 to December 2016. The incidents in question took place as per the FIR from 1.6.2015 to 5.12.2016.

5. Averments in the FIR are to the effect that though the first informant initially protested, subsequently she developed friendship with the present applicant due to Social Networking Site. They first met in July 2015. In August 2015 the first informant accepted invitation of the present applicant for a dinner with him. By taking the food in the car, the first informant and the present applicant took a long drive and then went to the house of the present applicant. As per

version of the first informant at that place, the applicant committed rape on her by administering some intoxicant to her. The first informant further reported that the applicant informed her that he has few photographs and video clips of the prosecutrix and therefore, she indulged in sexual relations with him on several dates at hotel Vrundavan. As per version of the prosecutrix even after her husband returned to his home, the present applicant visited her house and indulged in outraging her modesty. She subsequently consumed Lysol and took medical treatment. She disclosed the incident to her husband. Thereafter, she went to the place of her mother. Subsequently, her husband reported the incident to the National Women Rights Commission and that is how she has lodged the report.

6. The investigation of the crime in question is over and mere formality of filing the charge-sheet is remained. The first informant is an adult married lady aged about 28 years having three children from the wedlock. She accepted

invitation of the present applicant and then had physical relations with him on several occasions, which according to the first informant were forcible due to threats by the present applicant.

7. Considering the nature of the evidence available against the present applicant and the fact that the investigation of the crime in question is over and the prosecutrix is an adult married lady, further pre-trial detention of the present applicant is not warranted. Hence, the following order.

ORDER

- i) The application is allowed.
- ii) The applicant/accused in Crime No. I-210 of 2017 registered with Police Station Manikpur, Thane for the offences punishable under Sections 328, 376, 354(D), 509 of the Indian Penal Code be released on bail on executing his P.R Bond of Rs. 15,000/- and on furnishing surety in the like amount.

- iii) The applicant/accused should not tamper with the prosecution evidence.
- iv) The applicant / accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.
- v) The application is disposed of accordingly.

(A.M. BADAR, J)