

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2502 OF 2016

Zahoor Khan Mohammad Ansari	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Mohd. Arshad Nehal, Advocate for the applicant.
Mr. S.H. Yadav, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **17th January, 2017.**

P.C.:

This Application is moved by the applicant/accused for bail, as he is facing prosecution for the offences punishable under sections 363, 366A, 376 r/w. 34 of the Indian Penal Code at C.R. No. 231 of 1997 with Vishrambaug Police Station, Pune. The offence is registered at the instance of Shivaji Haribhau Aitode on 7th October, 1997.

2. It is the case of the prosecution that applicant/accused was in love with the daughter of the complainant, who at the time of complaint was 17 years and 11 months old. Thereafter, the applicant was arrested, however, he was released on bail in August, 1998. He could not furnish surety but was released on cash bail. In September, 1998, the girl became major and thereafter they got married in the same month. In 2004 both got separated, however, in between, out of the wedlock, the applicant/accused and prosecutrix have two sons, who are teenagers and taking education in the school. Both the sons are with the applicant/accused. When the

applicant/accused was on bail, he did not attend the Court dates, so the case could not be committed. In order to procure the presence of the applicant/accused, all steps were taken by learned Judicial Magistrate First Class including the order of proclamation under section 82 of Cr. P.C., however, he could not be arrested by the police. The applicant was found and arrested on 14th November, 2016 and now the case is committed to the Sessions Court. The applicant/accused is in custody. The Bail Application was rejected by the learned Judicial Magistrate First Class, Court No. 4, Pune on 16th November, 2016. So also the learned Additional Sessions Judge, Pune rejected the Bail Application of the applicant/accused on 30th November, 2016. Hence, this Bail Application.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused is a driver by profession and therefore, he is continuously moving and has failed to attend the Court dates. However, now the applicant undertakes that he will attend all the Court dates. The learned counsel further points out that prosecutrix has given an affidavit before the Sessions Court that she is married and she has no complaint against the applicant/accused. Moreover, the father of the prosecutrix is also expired. Hence, the learned counsel prays that applicant be bailed out.

4. Learned APP opposed the Application and submitted that the

applicant/accused was not available since 1997 till 2016.

5. The case is 20 years old. It is to be taken up for hearing immediately. Considering the nature of offence, the facts of the case and the fact that applicant/accused was on bail for so many years, I am inclined to grant bail to the applicant/accused on the following terms and conditions:

ORDER

- (i) Application is allowed.
- (ii) The applicant/accused be enlarged on bail on furnishing P.R. Bond in a sum of Rs.30,000/- with one or two solvent sureties in the like amount;
- (iii) The applicant is directed to submit the photocopy of the driving licence and furnish his permanent address and addresses of one or two relatives, who are residing in Pune, to the Investigating Officer;
- (iv) The applicant shall attend all the Court dates;
- (v) The applicant shall not abscond or leave India without prior permission of the Court.
- (vi) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.
- (vii) The learned Sessions Judge, Pune is hereby directed to take

up this matter and expedite it at the earliest.

6. The Application for bail stands disposed of on above terms.

(MRIDULA BHATKAR, J.)