

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1498 OF 2018**

Iqbal Ismail Ghashi.

..Applicant.

V/s.

The State of Maharashtra.

..Respondent.

Ms. Manisha Arjun Devkar a/w. Mr. Shankar Katkar, advocate for the applicant.

Mr. S.H. Yadav, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : AUGUST 3, 2018.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 28/12/2017 in Crime No. 854 of 2017 registered at Karad City Police Station on 4/12/2017 for offence punishable under section 376, 366, 342, 323, 504, 506 of Indian Penal Code. The investigation is completed and charge-sheet is filed on 13th March, 2018.

3 It is the case of the prosecution that one Mrs. Poonam

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Santosh Yadav lodged a report at Karad Police Station in 2016. The applicant had called her to Karad S.T. Stand to discuss about the said case. She had obliged. Thereafter, he had informed the applicant that he would have to call advocate and under the said pretext, they had left for Kolhapur in mini-truck. Without taking an halt at Kolhapur, they had gone to Keral i.e. Cochin. He had abused her, assaulted her on the way. He had detained her in a lodge and while leaving the room, he used to lock her up. He had then brought her to Malkapur and they had halted at Janseva lodge. He had sexual intercourse with her under coercion. Thereafter, she was sent to Mumbai with a threat that she shall not disclose the incident to anybody.

4 The first informant happens to be a married woman who is deserted by her husband. In the course of investigation, it had transpired that there were cordial and intimate relations between the first informant and the applicant. On their way to Karad, he had asked Shailesh Jadhav to accompany him. That the police had recorded the statement of Shailesh Jadhav on 7/12/2017 and he had disclosed that he had accompanied them throughout. That while in transit, he had noticed that there were intimate relations between the complainant and the applicant. That the applicant had not abused the complainant at any

junction . He has also disclosed that while returning from Cochin, he was sleeping on the upper tier. There was an accident. A man was crossing road when the applicant had to apply emergency break due to which Shailesh Jadhav had fallen down and the glass had cracked. Later on, it had also fallen down. It was subsequently learnt about the first informant filing of complaint against the present applicant.

5 Similarly, the investigating officer has also recorded statement of Geetanjali Pawar who happens to be the sister-in-law of the first informant. She has disclosed that there were love relations between the applicant and the first informant used to accompany him at all time. According to her, on 22/11/2017 she had noticed her sister-in-law i.e. first informant packing her bag and baggage to live with the present applicant. She had left the house with full preparation for travelling and it was subsequently learnt that she has lodged a report against the present applicant.

6 Similarly, the lodge owner has disclosed that there was nothing to indicate that the complainant was brought to the lodge under coercion and that she was not detained in any way and was moving freely.

7 In view of the above discussion in the facts of the case, the

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applicant deserves to be enlarged on bail.

8 The observations are prima facie and restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the same shall not be considered for discharge application or at the time of trial.

9 Hence, the following order is passed :

ORDER

(i) The application is allowed.

(ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 30,000/- with one or more solvent sureties in the like amount.

(iii) The applicant shall not reside at village Masur and shall not enter into village Kavathe, Taluka Karad till the conclusion of the trial.

(iv) The applicant shall not tamper with the evidence.

10 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]