

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 295 OF 2018***

Babasaheb Chokha lankeshwar	Applicant
Versus	
The State of Maharashtra	Respondent

Mr.Aniket Nikam, for the applicant.
Mr.N.B.Patil,APP, for the State.

***CORAM : SMT. SADHANA S.JADHAV, J.
DATE : 23rd February, 2018.***

P.C. :

1. The learned counsel for the applicant fairly submits that as on today, the learned counsel has no instructions to withdraw the application. The applicant herein is arrested on 13.9.2017 in Crime No.308 of 2017 registered at Vairag Police Station, Dist. Solapur on 13.9.2017. The investigation is completed and charge sheet is filed against the applicant in November, 2017 for the offences punishable under Sections 376, 366 read with Section 34 of the Indian Penal Code.
2. It is the case of the prosecution that on 13.9.2017, the complainant Smt. Babita Davne lodged a report at the police station

alleging therein that she is a widow since 10 -12 years. She was residing with her 15 year old son. She had no source of income and was helpless and hence she was entitled for the relief under the Sanjay Gandhi Niradhar Yojna Taluka Barshi. That every month, she had to go to the District Central Co-op. Bank at Barshi to draw the compensation. On 4.9.2017, she had been to Barshi along with her relatives. She had withdrawn Rs.1200/-. On the way, she had met Shaila Lankeshwar and her husband. While they were travelling, they got acquainted with each other. The complainant is a helpless woman and a widow and therefore she had asked her as to whether she would like to get remarried . Upon getting answer in the affirmative, she had informed her that her brother-in-law i.e. Babasaheb Lankeshwar i.e. the present applicant would get married to her. Shaila had telephonically enquired with the present applicant as to whether he would like to get married to the complainant. He also answered in the affirmative. Upon his instructions Shaila and her husband had asked the widow to accompany them. They had assured her that she would lead a happy marital life and she would be legally married to the present applicant. Thereafter, the helpless widow had accompanied them. On the way, they had purchased garlands, sarees and other material. They went to the village

Shripat Pimpri. The widow was taken to the house of the present applicant. They were introduced to each other. Thereafter, they had exchanged garlands. They all had lunch together. The widow was asked to cohabit with the present applicant. She had denied on the ground that the ritual which was performed was hardly a marriage which cannot be recognized by law and it was only the exchange of garlands and she did not feel that she had got married to the present applicant. However, she was convinced that soon they would enter into a registered marriage. She had put a condition precedent that she would stay with them provided there would be a registered marriage between the applicant and the complainant. She stayed in the house of the applicant on the hope that there would be a legal and valid marriage. However, the applicant had established sexual relations with her on an assurance that there would be registered marriage. Thereafter, the complainant was constrained to call her relatives and then they approached the police station and lodged the report. On the basis of the report, Crime No.308 of 2017 was registered. Investigation was set in motion. The police had recorded the statements of the witnesses, especially the neighbours and they had disclosed that they had seen the complainant residing in the house of the applicant for one week and upon enquiry she

had informed all of them that the present applicant was to have a registered marriage with the complainant. It had transpired that the wife of the present applicant had abandoned him 10-12 years ago. There was no divorce between the parties and, therefore, his status was of a married man.

3. Upon perusal of the papers of investigation, it appears that Shaila and her husband had taken undue advantage of a helpless widow. She was forced to exchange garlands with the applicant and was made made to believe that the same amounts to marriage. She was assured that there would be a registered marriage. In any case, the applicant could not have registered the marriage with the complainant for the simple reason that he was not divorced from his first wife. It appears that a stranger was just introduced to the applicant and was forced to get married.

4. Taking into consideration the abovementioned facts, this Court is of the opinion that the applicant does not deserve to be enlarged on bail. The application being sans merits, stands rejected.

(SMT. SADHANA S.JADHAV, J.)