

Anand

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

BAIL APPLICATION NO. 393 OF 2018

Masiullah Akhtar Shaikh

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr. N. R. Chomal, Advocate, for the Applicant

Mr. A. A. Palkar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 17.04.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 324 of 2017 registered with the Dharavi Police Station, Mumbai, for the alleged offence punishable under Section 376 of the Indian Penal Code.

3. According to the complainant / prosecutrix, aged 20 years, she met the Applicant, aged 24 years in 2016. She has stated that their friendship developed into a love affair and that they started meeting often. She has further alleged that the Applicant had taken her to a lodge

in Vashi where she had physical relations with the Applicant, as he had assured to marry her. She has stated that even thereafter, she had gone with the Applicant to a lodge, where they had physical relations. She has further stated that on 21.07.2017 when she questioned him about marriage, the Applicant gave evasive replies. She has stated that her friend had seen them i. e. the Complainant and the Applicant together, and that she had informed her parents, pursuant to which she disclosed to her parents about the Applicant. She has stated that she disclosed to her parents, that the Applicant was going to get married to her. She has further stated that the Applicant disclosed that there was a loan of Rs. 40,00,000/- payable by him and that when after he repaid the said loan, he would marry her. She has further alleged that when she went to meet him one day prior to the lodging of the complaint, she learnt that the shop where the Applicant was working, was a rented premises and that it was closed down. She has further stated that the Applicant had initially told her that his parents were in Bihar, when in fact they were residing with him, in Mumbai. According to the complainant / prosecutrix, on the assurance that the Applicant was going to marry her, she had physical relations with him. Although learned counsel for the Applicant submitted that the relations were consensual, whether the said relations were consensual or not, is a matter, which will be decided by

the trial Court. The Applicant is in custody since 01.08.2017. Investigation is complete and charge-sheet is filed.

4. 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 local solvent 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. and 11:00 a. m.** till the conclusion of the trial;

(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 not enter the jurisdiction of the Dharavi Police Station, Mumbai except for the purpose of attendance i.e. as per Clause (ii);

(v) The Applicant to cooperate with the conduct of the trial;

(vi) The Applicant shall file an undertaking with regard to clauses (ii) to (v), in the trial Court, within two weeks of his release;

(vii) If there are two consecutive defaults in appearing before the trial Court or appearing before the investigating officer of the concerned police station, the prosecution will be at liberty to apply for cancellation of the Applicant's bail.

5. The Application is allowed in the aforesaid terms and is accordingly disposed of.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)