

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

BAIL APPLICATION NO. 600 OF 2018

Bharat Somnath Ugale

... Applicant

Vs.

State of Maharashtra

... Respondent

...

Ms. Gunjan Thakkar and Mr. Rishi Bhuta for the applicant.

Mr. A.R. Kapadnis, APP for the Respondent-State.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 6th OCTOBER, 2018.

P.C.

1. This is an application for bail in connection with C.R. No. 158 of 2017 registered with Shivaji Park Police Station for the offences punishable under sections 406, 420, 465, 467, 468, 469, 471, 376, 377 read with 34 of Indian Penal Code. The FIR was lodged on 31st May, 2017. Applicant was arrested on 19th June, 2017.

2. The case of the prosecution is that the complainant met the accused at her institute for English Speaking Course, they got acquainted with each other and became friends. Complainant had given amount of Rs.60,00,000/- to the accused who sought financial help on account of illness of his mother. Both of them

developed close relation and decided to marry. The complainant was divorcee. The accused agreed to marry her. In pursuant to that marriage was solemnised in a temple at Bandra on 28th June, 2013. Thereafter both of them resided at Worli. Accused took amount of Rs.3,71,387 from the complainant prior to marriage, which was given by her by obtaining the loan from the bank. On several pretext the accused has induced the complainant to part with money. The accused had physical relationship with her. She was forced to have sex with a foreigner. The complainant had purchased a flat situated at Virar Dist. Palghar. The applicant was finding it difficult to travel to and fro for his share trading business, then both decided to shift to Pune. Accused came to Mumbai from Pune on the pretext of some work. The complainant received the SMS on her phone stating "BAD NEWS BHARAT". Accused could not be contacted and missing complaint was filed on 20th April, 2017. Inquires were made and it was found that the accused was already married having one daughter. The complainant accessed the Facebook account of the Applicant and found the photographs of wife and daughter of the accused. The complainant lodged a written complaint with Dadar Police Station on 4th May, 2017. Thereafter, the statement was recorded and FIR

was registered on 31st May, 2017. According to the complainant she has parted huge amount to the applicant/accused.

3. Investigation was proceeded. Statement of witnesses were recorded. On completing the investigation, chargesheet has been filed. Applicant preferred an application for bail before the Sessions Court, which was rejected on 16th November, 2017.

4. It is submitted that the applicant is being falsely implicated in this case. The offences as alleges by the complainant are not made out against the applicant. Admittedly, accused and the complainant were in relationship and as stated in the complaint, the case of the complainant is that they had solemnized marriage and even resided together. In the circumstances, the commission of offence under Section 376 of Indian Penal Code does not arise. It is further submitted that the complainant was aware about the marital status of the applicant. The complainant has sent e-mail on 1st November, 2015 from her I-phone thereby attaching and sending documents pertaining to the medical policies of the applicant, his wife and daughter. The laptop from which the complainant accessed the Facebook account of the applicant after lodging missing complaint was jointly used by the applicant and the complainant for many years. All necessary details to access the

Facebook account, such as login ID, password etc. was available with the complainant and that is the sole reason that the complainant was able to access the said account in the absence of the applicant. The relevant details regarding the wife and daughter of the applicant are already uploaded on the said Facebook account since 2012. Applicant is having several bank account. The applicant was associated with Indian Market Research Bureau and was assigned with the job of bank mystery audit. Since the applicant could not have access to the working system of the bank, the applicant was required to open account in a different bank to get the required statistics. It is further submitted that allegations of the complainant of being forced to have unnatural sex with a foreigner is false and baseless allegation. It is submitted that bank statement of the applicant would indicate that the applicant had paid money to the complainant from time to time. It is submitted that the complainant had photograph with foreigner which shows that the allegation that she was forced to have relationship with said accused is false.

5. Learned APP submitted that applicant is not entitled for bail. Applicant has committed serious crime. He had deceived the

complainant. He has suppressed the first marriage from the complainant. The applicant had physical relationship with the complainant. He also forced to complainant to have relationship with co-accused and to have unnatural sex with him. The complainant was induced to part with huge amount from time to time. Accused is also involved forgery of documents. Hence, it is prayed that application be rejected.

6. Having heard both sides and also going through the documents on record. It can be noted that the complainant was acquainted with the applicant somewhere in 2013. Marriage was solemnized on 28th June, 2013. Both of them had resided together. Apparently, complainant has parted with amount from time to time to the applicant/accused. They have stayed together as husband and wife. The incident had occurred from 2013 onwards whereas the FIR was lodged in 2017. Investigation is completed and chargeheet has been filed. Looking into the nature of allegations, the factual aspects, the documents on record and considering the fact that chargesheet is filed and applicant is in custody for more than a year, his further custody is not necessary. Hence, case for grant of bail is made out. I pass the following order.

ORDER

- i. Criminal Bail Application is allowed;
- ii. The applicant is directed to be released on bail in connection with C.R. No.158 of 2017 registered with Shivaji Park Police Station on furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount;
- iii. The applicant is permitted to furnish cash security in the sum of Rs.25,000/- for a period of four weeks.
- iv. The applicant shall attend Shivaji Park Police Station once in a month on first Saturday between 10 a.m. to 12 noon till further order;
- v. The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- vi. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)

Sachidanand
Kuttan Nair

Digitally signed
by Sachidanand
Kuttan Nair
Date:
2018.10.11
15:32:36 +0530