

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.612 OF 2018

Sunil Gulab Jagdhane, Age 42 years,
Occ.Advocate, R/o.J1, Government Quarters,
Adarsh Nagar, Goregaon (East),
Mumbai-400 065
(Presently lodged in Arthur Road Prison)

Applicant

versus

The State of Maharashtra

Respondent

Mr.Kuldeep S. Patil for applicant.
Ms.A.A.Takalkar, APP, for State.
Mr.Patil, PSI, Aarey Police Station.

CORAM : PRAKASH D. NAIK, J.

DATE : 5th October 2018

PC :

1. The applicant is seeking bail in CR No.I-133 of 2017 registered with Aarey Police Station, Mumbai for offences under Sections 376, 377, 420, 354(A), 342, 323, 504, 506(2) of Indian Penal Code. The FIR was registered on 9th October 2017. The applicant was arrested on 9th October 2017.

2. The case of prosecution is that the complainant is a divorcee and she was in search of a person for second marriage and for the same purpose she came in contact with applicant who was also a divorcee and was looking for the same. It is alleged that from June-2017 to August-2017, the accused under the pretext of marriage had forceful physical relationship with the complainant. He used to abuse and assault her. The accused also had un-natural sex with the

complainant and used to confine her in the room. It is also alleged that the accused had shown her obscene videos. The accused prepared a bond which was notarized by the notary to show that he had solemnized the marriage with the complainant.

3. During the course of investigation, statements of various witnesses were recorded and on completing the investigation, the charge sheet has been filed.

4. Learned counsel for applicant submitted that the applicant has been falsely implicated in this case. The complainant has admitted that she was married to applicant in accordance with Buddhist rites and rituals and both of them co-habited together as husband and wife. Thus, the alleged offences cannot be attributed to the applicant. The physical relationship was consensual and on account of subsequent dispute, the complainant has lodged the FIR on 9th October 2017. It is further submitted that the investigation is completed and charge sheet has been filed. The applicant is an advocate by profession and there are no criminal antecedents against him.

5. Learned APP submitted that the first informant has given details of the offences committed by the accused. The allegations are serious. The accused has also prepared a bond on stamp paper under the pretext of registration of marriage. The accused used to assault the complainant and he has also committed un-natural offence. It is, therefore, submitted that the application may be rejected.

6. I have perused the FIR and other documents which forms part of the charge sheet. The case of complainant is that she was a divorcee. She is aged about 30 years at the time of lodging the FIR. After her divorce, she was looking for second marriage and had registered her name with marriage bureau in 2015. One person had brought the information about applicant and represented that he is an advocate and is also a divorcee. The accused was introduced to the complainant. It is further stated that on 3rd June 2017 the applicant called the complainant at Vikroli Court and told her that the marriage can be performed by registration at Bandra Court. He executed certain writing on a stamp paper which was notarized and represented that their marriage has been registered. On 26th June 2017 the accused insisted that she should meet him as they have performed marriage and threatened her. Thereafter the accused took her to room situated near Aarey Dairy. Both of them visited Buddha Vihar and performed certain rituals as per Buddhist rites. The accused also gave her Gold Mangalsutra. Both of them went to Solapur on 28th June 2017 and stayed there for two days. Thereafter they started staying at Goregaon. Subsequently the accused had allegedly forceful sexual relationship with her. The accused started confining her in a room. The incident of physical relationship occurred somewhere in first week of July-2017 and the alleged unnatural act in 2nd week of July-2017. The FIR was lodged on 9th October 2017. On perusal of the FIR and the subsequent statement of complainant, it is apparent that both of them had performed marriage in accordance with Buddhist rites and had stayed together. The FIR was lodged subsequently. Considering the nature of allegations and also considering the fact that investigation is

completed and charge sheet is filed, case for grant of bail is made out.

7. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.612 of 2018 is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with CR No.I-133 of 2017 registered with Aarey Police Station, Mumbai, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report the Aarey Police Station, Mumbai once in a month on every first Saturday between 10 am and 12 noon till further orders;
- (iv) The applicant shall not tamper with the evidence.

(PRAKASH D. NAIK, J.)

MST