

nsc.

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

CRIMINAL BAIL APPLICATION NO.647 OF 2018

Vishal Suresh Chavan	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.S.B.Shelar, for the Applicant.

Mr.S.S.Hulke, A.P.P for the Respondent-State.

Mr.Kamlesh Jain, for the Original Complainant/Respondent No.2.

CORAM : REVATI MOHITE DERE, J.

DATE : 4th MAY, 2018

P.C. :

1. Learned Counsel for the applicant seeks leave to amend to delete the name of the prosecutrix wherever it appears in the application. Leave granted. Amendment to be carried out forthwith.

2. Heard learned counsel for the parties

3. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.333 of 2017 registered with the Versova

Police Station, Mumbai, for the alleged offences punishable under Sections 376 and 420 of the Indian Penal Code.

4. Perused the papers. According to the prosecutrix, aged 34 years, she met the applicant in July, 2015. She has stated that as she was interested in acting she uploaded her photographs on website and that she received a call on July, 2015 from one Vishal Chavan (applicant) asking her to come for an interview. She has alleged that after about 10 to 15 days, the applicant called her and told her that he wanted to be friends with her, however she did not respond. She has alleged that the applicant would try to talk to her on phone and that in July, 2015, they became friends and that they fell in love with each other; that in September, 2015, the applicant proposed marriage, which she accepted; that in October, 2015, the applicant started visiting her house at Versova and that they had physical relations; that initially, she refused, however, on the applicant's assurance and promise that they would be getting married soon, she consented to the said physical relations. The prosecutrix has further alleged that in January, 2016, the applicant had physical relations with her on 2 to 3 occasions. According to the prosecutrix, from time to time, the applicant was demanding money

from her under the pretext of purchasing a car and for the expenses for arranging marriage and for securing residential accommodation for them. She has stated that she parted with monies from time to time, at the applicant's request i.e. from May, 2016 to February, 2017, a sum of Rs.20,83,000/- was paid by her to the applicant. She has stated that out of the said amount, the applicant had returned only Rs.2,48,000/-. She has stated that in June, 2017, the applicant had called her and told her that he was arrested by the Sion Police on a false complaint and that he was in need of Rs.18 lakhs for getting himself released from the said case, pursuant to which, she transferred Rs.1,50,000/- in the applicant's account in Axis Bank and also gave an additional Rs.1 lakh to his Advocate on 8th July, 2017. The applicant was enlarged on bail. According to the prosecutrix, when she asked the applicant to return her money, the applicant promised her that he would do so, within one month, however failed to pay. Pursuant thereto, the complainant lodged the aforesaid complaint, alleging that from October, 2015 till 2017, the applicant had physical relations with her on the assurance that he will marry her and also cheated her for Rs.17,95,000/-.

5. Learned Counsel for the applicant has tendered an undertaking of the applicant, dated 3rd May, 2018, affirmed before the Senior Jailor, Mumbai Central Prison, Mumbai. In the said undertaking, the applicant has undertaken to deposit a sum of Rs.3 lakhs on 7th May, 2018, in the Registry of this Court, prior to his release and the balance amount of Rs.15,35,000/-, within 4 weeks of his release. The applicant has also given his no objection, to the said amount being paid to the original complainant/Respondent No.2. The applicant is in custody since 5th November, 2017. Investigation is complete and charge-sheet is filed.

6. In the peculiar facts of this case and considering the undertaking given by the applicant, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. to 11:00 a.m., till the framing

of charge;

iii) The Applicant shall not tamper with the evidence or attempt to influence/contact/threaten, the complainant, witnesses or any person concerned with the case;

iv) The Applicant shall deposit Rs.3 lakhs in the Registry of this Court on or before 15th May, 2018, before his release from jail;

v) The Applicant shall deposit the balance amount of Rs.15,35,000/-, within four weeks of his release, in the Registry of the trial Court;

vi) The Applicant shall be released on complying with the said condition, and on producing the receipt of Rs.3 lakhs. As far as the balance amount is concerned, the applicant shall deposit the same, as undertaken by him in the undertaking, within four weeks of his release, in the Registry of the trial Court.

vii) The Applicant shall co-operate in the conduct of the trial.

7. In view of the no objection given by the applicant, the original complainant/Respondent No.2, to file an appropriate application, before the Registrar, seeking withdrawal of the amount, deposited by the applicant. The Registry on verifying the complainant/Respondent No.2's identity, to release the said amounts deposited by the Applicant, in her favour.

8. The Application is allowed and disposed of in above terms.

9. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

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

(REVATI MOHITE DERE, J.)