

Anand

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

BAIL APPLICATION NO. 709 OF 2018

Ajay Ramnaresh Tripathi .Applicant

Vs.

The State of Maharashtra .Respondent

Ms M. A. Ingale, Advocate, for the Applicant

Mr. Y. Y. Dabke, APP, for the Respondent – State

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 02.07.2018

P.C.

. Heard learned counsel for the Applicant and the learned
APP for the Respondent – State.

2. This is an Application under Section 439 of the Code of Criminal Procedure. The Applicant herein is arrested on 24.07.2017 in C. R. No. 205 of 2016, registered at Warje Malwadi Police Station, Pune for the offences punishable under Sections 376(2)(n), 323, 384, 386, 387, 504, 506(2), 507 r/w 34 of Indian Penal Code and Section 66E of the Information Technology Act. The investigation is completed and charge-sheet is filed. It is the case of the prosecution that on 26.04.2016, Ms Rakhi Shivraj Pednekar lodged a report at the Police Station

alleging therein that the present Applicant hails from Uttar Pradesh. The husband of the first informant had brought the Applicant to their house and had introduced his wife to him saying that he happens to be his business partner and that he would be staying with the family for few days. It is alleged that the Applicant had disclosed to the first informant that he is in possession of her photographs and that he would circulate the same on social media. It is alleged that he had also disclosed that he had fitted CCTV camera in their bed room and has captured images of the first informant. The Applicant is alleged to have demanded an amount of Rs. 5,00,000/- and Rs. 2,00,000/- on the ground that her photographs should not be circulated on social media. The first informant has further alleged that her husband had got married to one Renu Khan. The present Applicant had allegedly informed her that he would show her the house of Renu Khan and on the said pretext had taken her to Agra (Uttar Pradesh) and then he ravished her on more than two occasions under the threats of circulation of her photographs. She had parted with Rs. 15,80,000/- in his favour. It is also alleged that the Applicant had also threatened her elder sister residing at Agra. On the basis of the said report, the offence was registered against the Applicant.

3. In the course of investigation, after considering the supplementary statement of the Complainant and the statement of daughter of the Complainant, her husband was also arraigned as an accused. However, the investigating agency has dropped prosecution against him that he was granted pre-arrest bail.

4. The compilation of the charge-sheet in the case shows that there were several intimate messages exchanged between the present Applicant and the Complainant. There are also photographs of the present Applicant with the victim. They are intimate photographs. In fact, the investigating agency ought not to have annexed the same to the charge-sheet. The said photographs do not depict that the first informant was under stress. It appears that she had voluntarily accompanied the present Applicant. The charge-sheet also includes a notarized document signed by the first informant and the present Applicant, wherein she had voluntarily got married to the present Applicant. It also shows that she had actually got married to the Applicant on 18.09.2015 in Shiv mandir, Rawli (Agra). It is pertinent to note that the said document was notarized at Agra in the District Court. The register of the notary – Anilkumar corroborates that the said document was rather notarized in his office where the first informant had signed voluntarily.

5. In view of the observations made herein above, it appears that there was consensual sex between the Applicant and the first informant. The first informant was a married woman and mother of 13 years old daughter. In view of this, the Applicant deserves to be enlarged on bail.

6. Hence, I proceed to pass the following order.

ORDER

- (i) The Application is allowed;
- (ii) The Applicant be enlarged on bail on furnishing P. R. Bond in the sum of Rs. 30,000/- with one or more solvent sureties in the like amount;
- (iii) Within four weeks from the date of his release, the Applicant shall furnish his address, cell phone number and other details to the investigating officer;
- (iv) The Applicant shall also give an undertaking to the Sessions Court seized with S. C. No. 806 of 2017 and that he would attend all the scheduled dates before the Court;
- (v) The Applicant shall furnish his permanent address, temporary address and other details to the Sessions Court also.

(SMT. SADHANA S. JADHAV, J.)