

*Nalawade*FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 942 OF 2018
Nitin Bhanudas Jadhav vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms. Sonali Bhagat for the Applicant.

Mr. Ameet Palkar, APP for the State.

CORAM : A.S.GADKARI, J.

DATE : 20th June, 2018

P.C.

1. This is an application under Section 439 of the Code of Criminal Procedure for bail in CR No.I-219/2017 dated 19.7.2017 registered with Mahatma Phule Police Station Kalyan, District Thane under Sections 376(1). 2(n) and 417 of the of the Indian Penal Code.

2. The prosecutrix in the present case was aged about 23 years on the date of lodgment of the crime. That the applicant and the prosecutrix were knowing each other since 2008 as they were residing in the same vicinity. It is the further prosecution case that, the applicant by giving

promise to marry with the prosecutrix had physical relations with her at various places. That, on 30.4.2017 the applicant performed marriage with another girl and even after the said marriage he continued to have relations with the prosecutrix on some or other pretext. In the premise, the first information report is lodged on 19.7.2017.

During the course of investigation, the applicant came to be arrested 28.7.2017 and after completion of investigation the police have submitted charge sheet.

3. Perusal of the statement of the prosecutrix recorded by police under Section 161 of the Cr.P.C. and her statement recorded under Section 164 of the Cr.P.C. by the Judicial Magistrate First Class, Kalyan, prima facie indicates that, the prosecutrix was a consenting party to the alleged act as contemplated under Section 376 of the I.P.C. The prosecutrix even after the marriage of the applicant with another woman continued to have relations with him and therefore, it further prima facie appears that it was a consensual act between two adult persons. In view thereof, the applicant can be released on bail.

Hence, the following order.

- a) The applicant be released on bail in CR No.I-219/2017 dated 19.7.2017 registered with Mahatma Phule Police Station Kalyan, District Thane on his furnishing PR bond of Rs.25,000/-with one or two solvent local sureties in the like amount.
- d) After his release from Jail the applicant shall attend the Mahatma Phule Police Station Kalyan, District Thane on every first Monday of the month between 11.00 a.m. to 1.00p.m. and to join the process of investigation.
- e) The applicant shall attend all the dates before the Trial Court unless precluded on medical reasons.
- f) The applicant shall not tamper with the evidence and /or pressurize the prosecution witnesses.
- g) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)