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

CRIMINAL BAIL APPLICATION NO.991 OF 2018

Arbaz Mohammed Yusuf Khan	...Applicant
Versus	
The State of Maharashtra	...Respondent

***WITH
CRIMINAL APPLICATION NO.519 OF 2018
(FOR INTERVENTION)
IN
CRIMINAL BAIL APPLICATION NO.991 OF 2018***

Farheen Jaleel Shah	...Intervener
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IN THE MATTER BETWEEN

Arbaz Mohammed Yusuf Khan	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms.Anjali Patil, for the Applicant.

Mr.M.G.Patil, A.P.P for the Respondent-State.

Mr.Smit Nagda, for the Intervener.

PSI – S.D.Kamat, B.K.C. Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 24th APRIL, 2018

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.399 of 2017 registered with the B.K.C. Police Station, Mumbai, for the alleged offences punishable under Sections 376, 325, 323, 504, 506, 427 of the Indian Penal Code.
3. According to the complainant, aged 19 years, she met the applicant, aged 21 years, one year prior; that their friendship developed into love affair; and that they started talking to each other on mobile. The complainant has stated that the applicant promised to marry her in September, 2017 and that the applicant had physical relations with her, without her consent. She has alleged that when she questioned the applicant about marriage, the applicant started giving evasive reply. She has stated that on 20th December, 2017, at about 5.00 p.m., the applicant called her to Band Stand, Bandra (West), Mumbai, to meet him and that she went to

meet the applicant at Band Stand, Bandra (West). She has stated that the applicant asked her for sexual favours, however, she refused and stated that they should get married first. She has stated that the applicant got enraged and assaulted her, as a result of which, she lost her two teeth and sustained injuries on her head. She has stated that the applicant took her to the hospital and asked her not to disclose the said incident of assault to any person. She has further stated that on 25th December, 2017, the applicant called her home and took her to a hotel; that when she questioned the applicant about marriage, he again gave evasive answers and had forcible sexual relations with her, without her consent. She has further stated that on 27th December, 2017, the applicant came home in the night, as she had refused to go out and physically assaulted her.

4. Learned Counsel for the applicant submitted that the applicant and the complainant were engaged on 28th September, 2017 and relied on the photographs, which are at Exhibit – 'B' of the application. She submitted that the applicant and the complainant are both adults and that the relations between them were with consent. She submits that the complainant has suppressed the fact of engagement between them,

however, the photographs reveal that the applicant was engaged to the complainant. The applicant is in custody since 29th December, 2017. Investigation is complete and charge-sheet is filed.

5. Considering the peculiar facts and circumstances of the case, 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 Sunday of every month, between 10:00 a.m. to 11:00 a.m., till the framing of the charge;
- iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

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

v) The Applicant shall co-operate in the conduct of the trial;

vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the trial Court, within two week's of his release;

vii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

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

7. 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.

8. In view of the aforesaid, the Intervention Application being Criminal Application No.519 of 2018 does not survive and the same is also disposed of.

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

(REVATI MOHITE DERE, J.)