

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

CRIMINAL BAIL APPLICATION NO.1359 OF 2018

Vishal Ganpat Pawar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Tushar Narayan Sonawane for the applicant.

Mr.M.G. Patil, APP for the respondent/State.

Ms.Snehal R. Adsule, PSI, Vartak Nagar Police Station, Thane.

CORAM : PRAKASH D. NAIK, J.

DATE : 7th SEPTEMBER 2018

P.C. :

1. The applicant is seeking bail. The offence is registered vide CR No.I-220 of 2017 registered with Vartak Nagar Police Station, Thane under Sections 376, 377, 326, 323, 506 of the Indian Penal Code.

2. The FIR was lodged on 8th July, 2017.

3. The case of the complainant is that she is married woman. She is married to Avinash Sable and was residing at Palvan

Taluka Bid. Thereafter, both of them came to Thane in search of employment and started residing at Thakurli. Her husband got employed in Viviana Mall. With the help of his friend Santosh Gavit they had arranged rental accommodation at Laxmi Cheera Nagar, Thane. The applicant/accused was residing in the said vicinity. He was acquainted with her husband and they became friends. The complainant got employed in Viviana Mall. The accused developed relationship with her and both of them became friend. The applicant used to meet her during lunch time. There was dispute relating to the property between her husband and others at native place and hence her husband had gone to the native place for a period of fifteen days. On 7th July 2016, the accused met her on the way and told her that he was celebrating his birthday and she should join the celebration alongwith her husband. The complainant told him, that her husband was not at home. Therefore, she is not in position to attend the party. The accused insisted her to come alone. The complainant then came home without attending the party of the accused. The applicant/accused then visited her house at about 9.00 pm with soft drink. He requested her to consume the soft drink brought by him. The complainant consumed the same and felt dizziness. She realized that the accused was indulging in sexual assault with her. She questioned him about the same. It was about 2.30 am in the night. The accused threatened her and also showed her video shooting of the sexual act recorded by him. He threatened her

that in the event she disclose the incident to any one he would make recording viral and left her home at about 5.00 am in the morning. The accused then kept on threatening the complainant. He again induced her to have sexual relationship in a lodge in Thane. The accused then repeatedly visited her house and forcefully committed intercourse with her under the threat of video recording. Subsequently, the FIR was lodged. The applicant is arrested on 23rd January, 2018. During the course of investigation, the mobile phone of the applicant has been seized by the investigating officer and the same has been forwarded to forensic Laboratory for expert opinion and the report is awaited.

4. The learned Advocate for the applicant submitted that taking into consideration the nature of allegations made in the FIR, the relationship is apparently consensual. The investigation is completed and chargesheet has been filed. The applicant is in custody for long period of time. Further detention of the applicant is not necessary. It is prayed that the applicant may be granted bail.

5. Per contra, the learned APP submitted that the applicant committed a serious crime. The applicant has administered stupefying substance to the complainant and committed sexual intercourse. He had recorded the incident and kept on threatening the complainant and had committed repeated sexual

assault on her. The report of the forensic lab is awaited.

6. On perusal of the FIR, it is apparent that the first incident had allegedly happened on 7th July, 2016. It is alleged that the applicant came with soft drink which was consumed by the victim and after that she felt was sexually assaulted. The applicant already took undue advantage of the situation. FIR also indicates that thereafter on several occasions, there was sexual relationship between the applicant and the complainant. Allegedly the applicant used to threaten her and commit forceful sexual intercourse with her. It is also apparent that the accused and the complainant went to the lodge and had physical relationship and also on several occasions in the house of the complainant. Taking into consideration, the nature of the allegations reflected in the FIR, the case for grant of bail is made out. Hence, the following order;

:: ORDER ::

(i) Bail Application is allowed.

(ii) The applicant is directed to be released on bail in connection with CR No.I-220 of 2017 registered with Vartak Nagar Police Station, Thane, on his furnishing P.R. Bond in the sum of Rs.20,000/- with one or more surety in

the like amount.

(iii) The applicant shall report the concerned police station once in a month on the first Monday of the month between 10.00 to 12.00 noon till further orders.

(iv) The applicant shall not tamper with evidence.

(v) The applicant shall not enter in the vicinity of the complainant.

Vina
Arvind
Khadpe

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signed by
Vina Arvind
Khadpe
Date:
2018.09.10
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[PRAKASH D. NAIK, J.]