

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1484 OF 2018

Wasim Imamuddin Shaikh, Age 26 years,
Occ.Driver, R/o.Punjabi Chawl,
Netaji Nagar, Ghatkopar (East),
Mumbai-400 077.

Applicant

versus

The State of Maharashtra

Respondent

Ms.Anjali Patil for applicant.

Mrs.G.P.Mulekar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 26th September 2018

PC :

1. The applicant is seeking bail in CR No.43 of 2018 registered with Pantnagar Police Station, Mumbai for offences under Sections 376, 354(A), 366(A), 506 of Indian Penal Code and under Sections 4,6,8,12 of Protection of Children from Sexual Offences Act. The applicant was arrested on 26th January 2018.

2. The case of prosecution is that the complainant is the mother of victim. She is residing along with victim and two children. The victim is a student of 11th standard at SNDT College. She is aged about 17 years. The husband of complainant is working in hotel. The accused is related to them as he is the son of sister of victim's father. The accused used to visit residence of complainant frequently. He is working as driver of OLA taxi which is owned by him. In September-2017 the complainant noticed that the victim

was in disturbed condition since last two to three days and has not been attending the college. The complainant made inquiries with her wherein she informed that the accused has forcibly made her to sit in the car and by threatening her, he outraged her modesty. He also threatened that he would make the photographs viral. On the next day the victim went to college. At that time the accused came there and again made her to sit forcibly in car and took her in slum area and committed forcible sexual intercourse with her. He abused and threatened her that photographs would be made viral. The complainant disclosed the incident to her brother-in-law. He advised her to lodge a complaint. Subsequently FIR was registered on 26th January 2018.

3. Learned advocate for applicant submitted that there was an affair between the applicant and the victim. Although she was aged about 17 years at the time of alleged incident which is the age of understanding, the relationship was consensual. She relied upon certain photographs clicked of the applicant with the victim in support of her contention that there was an affair between them. It is further submitted that the FIR was lodged subsequently on account of dispute in repayment of money. The complaint is after thought. The applicant is in custody from the date of arrest.

4. Learned APP submitted that the victim was minor at the time of incident. The accused had threatened the victim. The relationship was not consensual. The accused had issued threats of making the photographs viral and sexually exploited the victim. It is further submitted that the applicant had forwarded the photographs to his brother-in-law. However, on verification it was submitted that the

photographs were not objectionable but they were clicked with the applicant. The medical evidence is not very clear and does not corroborate the allegation of sexual assault. The photographs of the applicant and victim do indicate that they are in relationship. The charge sheet has been filed after completion of investigation. There are no antecedents against applicant. It also appears that the victim had forwarded love letters to the applicant. The prosecution alleges that she was forced to write such letters. Considering the aforesaid circumstances, case for grant of bail is made out.

5. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.1484 of 2018 is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with CR No.43 of 2018 registered with Pantnagar Police Station on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report Pantnagar Police Station once in a month on every first Friday between 10 am and 12 noon;
- (iv) The applicant shall not tamper with evidence and shall not visit the area where victim and her family resides.

(PRAKASH D. NAIK, J.)

MST