

32- BA 1581 of 2018
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION No. 1581 OF 2018

Hyderali Abdulrashid Shaikh

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. M.S. Mohite i/b. Mr. Sohil Gulabani for Applicant

Ms. Veera Shinde -APP

Mr. Rajendra Mokashi, PI, Khadak Police Station, Pune City.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JULY 23, 2018

P.C.

1. Heard. This is an application under section 439 of the Criminal Procedure Code.

2. The Applicant herein is arrested on 5th December, 2017 in Crime No. 477 of 2017 registered at Khadak Police Station, Pune for offences punishable under section 376(N), 377, 420, 354(A), 506 of the Indian Penal Code and under section 3 of The Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman Evil and Aghori Practices and Black Magic Act,

2013.

3. It is the case of the prosecution that on 5th December, 2017, Ms. 'X' lodged a report at the police station alleging therein that the present Applicant happens to be a friend of her husband. That after two years of marriage, the Complainant had started getting convulsions and was suffering from vomiting and other ailments. Her mother-in-law suggested to her that she should take the help of the present Applicant, who indulges into black magic and that he may be able to cure her. It is alleged that the Applicant had taken the charge of the complainant and under the pretext of giving treatment, had ravished her for considerable long period. It is alleged that on one occasion her mother-in-law was also molested by the present Applicant and on another occasion, the minor daughter of the complainant was also victimized at the hands of the present Applicant.

4. The Applicant was arrested. The investigation is completed and the charge-sheet is filed.

5. The learned counsel for the Applicant has drawn the attention of this Court to several agreements between the husband of the Complainant and the present Applicant which show that the Applicant had invested money in the business of the husband of the complainant even during the period in which it

is alleged that his wife was being ravished at the hands of the present Applicant. There is a memorandum of understanding between the husband of the complainant and the Applicant. Similarly, one company has been floated in partnership with the complainant herself. The learned counsel for the Applicant has further submitted, on the basis of the documents, that it cannot be believed that even during the period when the Applicant was investing money in the company of her husband, she was being ravished and yet she had not complained about the same to her husband. Some of the incidents narrated would also show that they have taken place in the presence of the husband of the Complainant.

6. The learned APP submits that in fact the Applicant indulges into black magic. The house search panchnama would clearly show that the Applicant was rather practicing black magic. He appeared to be a quack. The investigation is completed and the charge-sheet is filed. The Applicant deserves to face trial for the offences for which he has been charge-sheeted. However, in the given facts of the case, further incarceration would not be warranted.

7. In view of this, the Applicant deserves to be enlarged on bail on imposing certain conditions.

8. The observations are prima facie in nature and shall not be taken into

consideration for discharge application and/or at the time of trial. Hence, the following order.

Order

- (i) Application is allowed.
- (ii) The Applicant be enlarged on bail on furnishing P.R. Bond of Rs.1,00,000/- and one or more solvent sureties in the like amount.
- (iii) The Applicant shall not reside at Satara and within the jurisdiction of Kondhwa Police Station, till conclusion of the trial.

Application stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]