

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

BAIL APPLICATION NO. 1608 OF 2018

Sushant Shrikant Kadam

... Applicant

Vs.

State of Maharashtra

... Respondent

...

Mr. Suraj D. Almeida for the applicant.

Mrs. G.P. Mulekar, APP for the Respondent-State.

Mr. D.R. Sawant, P.I. Kurar Police Station is present.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 24th SEPTEMBER, 2018.

P.C.

1. This is an application for bail in connection with C.R. No. 373 of 2017 registered with Kurar Police Station for the offences punishable under Sections 376, 504 and 506 of Indian Penal Code read with Sections 4 and 8 of POSCO Act.

2. The prosecution case is that on 5th June, 2017, the victim aged about 17 years had disclosed to the complainant who is her mother that accused had assured her that he would perform marriage with her and on the false promise of marriage he had committed sexual intercourse with her. Victim also disclosed to her mother that she was in love with the accused. There was

physical relationship between them. It is also alleged that incident had occurred on 23rd April, 2017. Thereafter, the accused used to call the victim and on refusal to fulfill his demand, he used to abuse and threaten her. On account of threat, the victim met the accused on 26th May, 2017 and there was physical relation between them. It was repeated on 3rd June, 2017. After the information was provided by victim, the family of the complainant approached the accused and her aunt and applicant gave assurance that he would not trouble the victim. On 20th June, 2017, the victim was sent to Kolhapur to the house of her uncle. However accused gave a call to her and abused her. Hence, on harassment, the complaint was lodged on 30th September, 2017.

3. Learned counsel for the applicant submitted that the tenor of the First Information Report and the statement of the victim reflect that the applicant and the victim were in relationship. It is further submitted that FIR was lodged belatedly. Alleged incident had occurred on three occasions. Medical evidence does not support the complaint and the statement of the victim.

4. On the contrary learned APP submitted that to avoid harassment the victim was sent to Kolhapur at her relatives house

where she had continued her education. However, the applicant continued to harass her. It is also submitted that complainant had threatened the family of the complainant. Victim was minor girl at the time of incident and her consent is immaterial. The accused has committed serious offence.

5. On perusal of the statement of the victim and complainant, it appears that there was relationship between the victim and the accused. Apparently, there were about three incidents of sexual relationship between them. Incident was narrated by the victim to her mother. Incident had occurred on 23rd April, 2017, 26th May, 2017 and 3rd June, 2017. The FIR was lodged on 30th September, 2018. The only ground on which Session Court rejected the application of the applicant is that the applicant had threatened the victim and her family. The medical evidence is part of chargesheet and it is debatable whether it corroborates the case of the prosecution. Applicant is in custody since 30th September, 2017. Investigation is completed and chargesheet has been filed. Further detention of the applicant is not necessary. Case for grant of bail is made out. There are no criminal antecedents against the applicant. Hence, I pass the following order.

ORDER

- i) Criminal Bail Application No. 1608 of 2018 is allowed.
- ii) The applicant is directed to be released on bail in connection with C.R. No. 373 of 2017 registered with Kurar Police Station on furnishing P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or more sureties in the like amount;
- iii) The applicant shall report Kurar Police Station once in a month on first Saturday between 10 a.m. to 12 noon till further order;
- iv) The applicant shall not threat and tamper with the evidence and/or influence the prosecution witnesses.
- v) The application stands disposed off.

(PRAKASH D. NAIK, J.)

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Sachidanand
Kuttan Nair
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