

923- BA 1808 of 2018

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

BAIL APPLICATION No. 1808 OF 2018

Shri Uttam Chandrakant Davare

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Anand Patil i/b. Anand Patil and Associates for Applicant

Mr. N.B. Patil -APP

Mr. Daattatray Nale, PI Mahabaleshwar Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: AUGUST 16, 2018

P.C.

1. Heard the learned counsel for the Applicant and the learned APP for State.
2. This is an application under section 439 of the Criminal Procedure Code.
3. The Applicant herein is arrested on 7th June, 2018 in Crime No. 59 of 2018 registered at Mahabaleshwar Police Station, Dist. Satara for offences punishable under Section 376, 420, 506 of the Indian Penal Code and under section 66-D of Information Technology Act, 2000. The investigation is still in

progress.

4. It is the case of the prosecution that the Applicant is working as a Lance Nayak in Army. He was posted at Jalandhar Cantonment since 2016. He was married to Rajashri in the year 2009. He is the father of a son.

4. It is the case of the prosecution that one Ms. 'X' lodged a report at the police station alleging therein that she had registered her name on the website jeevansathi.com. In 2017, she got a request from the present Applicant. He had contacted her on the phone. He had disclosed to her that he likes her profile and wanted to get married to her. Later on Ms.'X', who was intending to marry saw the profile of applicant and had contacted him on phone. Thereafter the prosecutrix met the applicant on various occasions at various places. Since the Applicant had assured her to get married she went to Mahabaleshwar. There, he had taken her to Hotel Vishwashanti. They had sexual intercourse only because they were to get married at the earliest.

5. Thereafter, the prosecutrix had seen the Facebook profile of the Applicant and noticed that he is the father of 7 years' old son. She had inquired with him and at that stage he had confirmed that he has a married man and a father of 7 years' old boy. Initially, he had informed that he is the son of his friend. Even after her refusal to continue any kind of relationship, the applicant continue to

solicit sexual from her. When the complainant refused the same, the Applicant threatened her that he would defame her image by uploading her obscene photographs on social media. On the basis of the said information, the offence is registered.

6. In the course of investigation, the police had seized the record of Hotel Vishwashanti, wherein it is shown that he was allotted a room No. 206. His Adharcard is on record. All this record shows that he had been with the complainant to Hotel Vishwashanti. The investigating officer has also recorded the statement of the wife of the Applicant. The leave record of the Applicant is also on record. The investigating officer has collected the information from jeevansathi.com, wherein it is shown that the Applicant is a prospective eligible bachelor. He has shown his occupation as Government Servant and marital status as 'never married'. The annual income is shown as Rs.4 to 5 lakhs and it is posted by him. The element of deceit on the inception is writ large on the face of the record. Although he is a married man and father of 7 years' old son, he had posed as an eligible bachelor.

7. The learned counsel for the Applicant submits that even after the complainant had learnt about the marital status of the Applicant, she had not approached the police station and there was a delay in lodging the FIR. It

appears that initially the complainant did not wish to approach the police station. However, she has specifically stated in the first information report that he continued to solicit sexual favour and only upon refusal, he threatened her with dire consequences and, therefore, she was constrained to approach the police station.

8. Since the investigation is in progress, no case for bail is made out by the Applicant. Hence, application stands rejected on merits.

9. The observations are prima facie in nature and the Trial Court shall not be influenced by the aforesaid made hereinabove at the time of trial.

[SMT. SADHANA S. JADHAV, J.]