

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

BAIL APPLICATION NO.1910 OF 2018

Vinayak Bharat Kharade	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Anand Patil I/b. M/s. Anand Patil and Associates for the Applicant.
Mr. S.H. Yadav, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 20th AUGUST, 2018.

P.C.:-

The Applicant herein has been arrested in C.R. No.134 of 2018 registered with Gokul Shirgaon Police Station, District-Kolhapur, for offences punishable under Sections 376, 500 and 506 of the IPC and Section 66 (E) of the Information and Technology Act, 2000.

2. Heard Mr. Anand Patil, the learned counsel for the Applicant, Mr. S.H. Yadav, the learned APP for the Respondent-State. Perused the records and considered the submissions advanced by the learned counsels for the respective parties.
3. The prosecutrix is about 23 years of age and was in love with the Applicant for about two years prior to the alleged incident.

The prosecutrix claims that on 6th April, 2018 boy named Vikas came to see her. The FIR further reveals that parents of the prosecutrix had arranged the marriage of the prosecutrix with Vikas and thereafter she had told the Applicant that she would not be able to marry him. Subsequently, the prosecutrix got engaged to Vikas. The prosecutrix claims that even after her engagement, the Applicant used to constantly call her and send her text messages as well as whats app messages on Mobile No.9970564849. He used to tell her to meet him. However, she had told him that her family members will not allow her to go out of house as her marriage is already fixed with Vikas.

4. The prosecutrix claims that on 4st June, 2018 she had gone to the house of the Applicant to attend a function. Thereafter she went to the terrace of the Applicant's house. The Applicant and one Shweta were present on the terrace. She claims that the Applicant put mangalsutra around her neck, they exchanged the garlands and that Shweta took their photographs.

5. The prosecutrix further claims that the Applicant had assured her that he would not show her photographs to anyone. She further claims that on 7th June, 2018 the Applicant took her to one lodge and had forcible sexual intercourse with her under the threat

that he would disclose their relations to her fiancée. She claims that thereafter she accompanied the Applicant to one jewellery shop as he wanted to buy earrings for his sister. She claims that later on the Applicant had handed over to her the mobile phone. It is the case of the prosecution that the Applicant had sent the photographs to Vikas with an intention of breaking the marriage. The FIR further states that on 9th June, 2018 her in-laws had once again come to their house and that they had still received the photographs from the mobile number of the prosecutrix.

6. The FIR thus, prima facie indicates that the prosecutrix, a girl of 23 years of age was friendly with the Applicant. Though she was engaged to another boy by name Vikas, she had willingly accompanied the Applicant to the terrace of his house, where the Applicant had put mangalsutra around her neck and they had exchanged garlands. Furthermore, the prosecutrix had herself sent photographs to Vikas. The statement of Shweta also prima facie reveals that when she had gone to the terrace she had seen the Applicant and the prosecutrix on the terrace and that both of them had told her to take photographs while they were exchanging garlands.

7. The statement of the prosecutrix also prima facie reveals

that she had willingly accompanied the Applicant to a lodge. Though she claims that the Applicant had forcible sexual intercourse with her in the said lodge, the FIR prima facie indicates that even after the said incident, she had accompanied the Applicant to a jewellery shop. The aforesaid conduct of the Applicant, prima facie reveals that the relationship between the Applicant and the prosecutrix was consensual. Hence, considering the totality of the facts of the case, in my considered view this is a fit case for grant of bail. Hence, the following order :

- (a) The bail application is allowed.
- (b) The Applicant is ordered to be released on bail on furnishing bail bonds of Rs.25,000/- with one or two solvent sureties to the like amount to the satisfaction of the Additional Sessions Judge, Kolhapur.
- (c) The Applicant shall not interfere with the victim or the other witnesses in any manner.
- (d) The Applicant shall furnish his permanent as well as temporary address and the contact number to the concerned Investigating Officer.

(SMT. ANUJA PRABHUDESSAI, J.)