

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

BAIL APPLICATION NO. 2066 OF 2018

Himanshu Shatrughan Jha ... Applicant
Vs.

State of Maharashtra ... Respondent

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Mr. Subhash Jha a/w Ms. Sanjana Pardeshi & Mr. Harekrishna Mishra I/by Law Global Advocates for applicant.

Mr. A.R. Kapadnis, APP for the Respondent-State.

Mr. Mukund Patil, P.I. Boriwali Police Station is present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 11th SEPTEMBER, 2018.

P.C.

1. This is an application for bail in connection with C.R. No. 388 of 2018 registered with Kurar Police Station, Mumbai for the offences punishable under Sections 376, 506 of Indian Penal Code. The applicant is arrested on same day and since then he is in custody.

2. The prosecution case is that the applicant and complainant got acquainted with each other on Facebook and after having several chats they became friends. The applicant called the complainant repeatedly to meet her on her phone and

consequently she agreed to meet the applicant. After meeting, the applicant informed her that he loved her and that he would like to live with her. Complainant also informed the applicant tht she too loved him. Consequently, the applicant visited the residence of complainant when there was no one at home and thereafter made sexual advances. The complainant resisted the same. After couple of days, the applicant called the complainant at Sanjay Gandhi Udyan Borivali and when complainant visited there the applicant made sexual advances which was resisted by the complainant. Applicant make promise of marriage and established physical contact with the complainant. It is further alleged that applicant threatened complainant not to inform anyone about the same and thereafter the applicant called the complainant at Sanjay Gandhi National Park and had sexual intercourse with her. It is further alleged that complainant had undergone abortion. The complainant lodged the FIR on 6th July, 2018.

3. Learned counsel for the applicant submitted that taking the allegation in the First Information Report as it is, the relationship was apparently consensual. The applicant and the complainant were acquainted with each other for a long period of time and there was physical relationship between them. It is further

submitted that First Information Report itself indicate that since 2013 till the lodging of First Information Report, both of them were acquainted with each other and on several occasions there was physical contact between them. The complainant has stated that the accused had forceful intercourse with her at about 10 to 15 times. It is submitted that in view of several decisions given by the Apex Court, it will have to be held that relationship between both the parties was consensual and there would be no impediment in granting bail.

4. Learned APP submitted that First Information Report indicate that complainant was forced to have sexual intercourse with the applicant. The false promises were made by the accused, inducing the complainant to indulge with physical contact with applilcant. It is further submitted that complainant had to undergo abortion. It is further submitted that at the time of abortion the applicant and the complainant had misrepresented the doctor that they are married couple.

5. On perusal of the First Information Report, it is clear that the complainant and the applicant accused were acquainted with each other since 2013. They had physical contact on several occasions. The complainant had undergone abortion. The First Information

Report was lodged on 6th July, 2018. The relationship between the complainant and the applicant had continued for a long time till the lodging of the First Information Report. They were acquainted with each other and apparently having an affair. The applicant is in custody from the date of arrest. Further detention of the applicant is not required. There are no criminal antecedents against the applicant. In the circumstances, bail can be granted to the applicant.

ORDER

- i) Criminal Bail Application No. 2066 of 2018 is allowed;
- ii) Applicant is directed to be released on bail in connection with C.R. No. 388 of 2018 registered with Kurar Police Station on furnishing P.R. Bond of Rs.20,000/- (Rs. Twenty Thousand only) with one or more sureties in the like amount;
- iii) Applicant is permitted to furnish cash security in the sum of Rs.20,000/- for a period of six weeks;
- iv) Applicant shall not contact the complainant and shall not threaten the witnesses;
- v) Applicant keep himself away from the complainant;

- vi) The applicant shall attend Kurar Police Station as and when called for till filing of the chargesheet;
- v) The application stands disposed off.

Sachidanand
Kuttan Nair

Digitally signed
by Sachidanand
Kuttan Nair
Date:
2018.09.12
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(PRAKASH D. NAIK, J.)