

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

CRIMINAL BAIL APPLICATION NO.2283 OF 2018

Vijay Singh s/o. Naresh Singh Tomar	.. Applicant
Vs.	
State of Maharashtra	.. Respondent

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Mr.Ram Mani Upadhyay, Advocate for the Applicant.
Mr.A.R. Kapadnis, APP for the Respondent – State.
PSI Khandagale, Kurar Police Station, Mumbai, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : DECEMBER 13, 2018.

P.C. :

This is an application for bail in connection with C.R.No.108 of 2018, registered with Kurar Police Station, Mumbai, for the offences under Sections 376, 354 and 417 of Indian Penal Code (“IPC”, for short). Applicant was arrested on 25th February, 2018.

2 The victim is aged about 18 years 8 months at the time of lodging First Information Report (“FIR” for short). On 2nd February, 2018, the victim’s father had assaulted her on account of not cooking food properly. The victim went to the place of her

relatives and from there at about 8:30 p.m., she left the house of her relatives. It is further stated that she went to Girgaum Choupati and she came across unknown person who disclosed his name as Rehan. He showed her sympathy. He told her to accompany him. Since the complainant was angry with her family, she went with him. The said person took her to hotel at Grant Road. They entered into the room. The said accused also called his friend Vijay (Applicant). Thereafter, accused Rehan committed sexual intercourse with her. The applicant was in another room at the time of said incident. Accused Rehan left the place and did not return. Applicant had convinced the victim that she should return to her home. However, since the victim was scared, she did not visit her house. The applicant-accused then told her that he is going to his village. Complainant also requested him that he should take her with him. Subsequently, both of them went to Zanshi and thereafter to Morena on 5th February, 2018. Applicant took the victim to his relatives home. She was introduced as his friend. On 6th February, 2018, applicant promised her that he would marry her. She has consented for the same. Subsequently, applicant-accused had physical relationship with her. About 10 to 15 times, there was sexual relationship. However, subsequently, the complainant insisted that she should be brought back to

Mumbai to her mother. Accused promised her that he would marry her. On 24th February, 2018, the complainant and the applicant came to Mumbai. Applicant had telephoned the relatives of the victim, and, thereafter, both of them were taken to Kurur Police Station and FIR has been lodged.

3 The victim was medically examined and in the history, it was disclosed that the victim had alone visited Girgaon Beach on 3rd February, 2018. Accused Rehan took her forcibly from Girgaon Breach to a room infront of Darbar Hotel and sexually assaulted her and again left her back to Beach. Another accused (applicant) met her on the beach and he counseled her and promised her to marry and took her with him at Morena at Madhya Pradesh on 4th February, 2018, by train and on 6th February, 2018 to 22nd February, 2018, the applicant had physical relations with her.

4 On perusal of the FIR, it is apparent that the applicant had volunteered to accompany the applicant and both of them went to Zanshi, from their village Morena. From the FIR, it appears that there was physical relation between them about 10 to 15 times. FIR also indicate that the applicant initially told

the victim to go to her house but she insisted that she would accompany the applicant. It is also apparent that the victim was brought to Mumbai by the applicant-accused and he also gave information to the relatives of the victim. The history given to the medical officer at the time of medical examination and the FIR, appears to be contrary to each other. Presence of the applicant in the hotel room opposite hotel Darbar is not reflected in the medical history. It is stated that both the accused met her at Girgaon beach. The victim was major at the time of incident. Applicant is young boy aged about 21 years. Learned APP submitted that the FIR attributes clear role to the applicant. Applicant had promised of marriage and had then sexually assaulted the victim, without her consent.

5 As stated hereinabove, the victim had accompanied the applicant to village Morena and on several occasion there were physical relationship. She was major at the time of incident, and, apparently, the relationship was consensual. Applicant is in custody from the date of arrest. Investigation is completed and charge-sheet is filed. Hence, case for grant of bail is made out.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.2283 of 2018, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.108 of 2018, registered with Kurar Police Station, Mumbai, which is subject matter of Sessions Case No.182 of 2018, pending before the Sessions Court at Dindoshi, Mumbai, on his furnishing P.R. Bond in the sum of Rs.20,000/-, with one or more sureties in the like amount;
- (iii) Applicant is directed to attend Kurar Police Station, Mumbai, once in a month on first Saturday of the month between 10:00 a.m. to 12:00 noon, till further orders;
- (iv) Applicant shall not tamper with the evidence;
- (v) Applicant is permitted to furnish cash security in the sum of Rs.20,000/-, in lieu of surety, for a period of four weeks from today;

- (vi) Bail Application stands disposed of;
- (vii) Parties to act on an authenticated copy of this order.

(PRAKASH D. NAIK, J.)