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

BAIL APPLICATION NO.2777 OF 2017

FIROZ FAKRUDDIN SHAIKH

..APPLICANT

Vs

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. A.N. Pathan for applicant.

Mr. Amit Palkar, APP for State.

Mr. Nitin M. Parab, PSI, Aarey Police Station present.

CORAM : A.S.GADKARI, J.

DATE : 14th August 2018.

P.C.:

1] This is an application under Section 439 of the Cr. P.C. for bail in CR No. 72 of 2017 dated 8.6.2017 registered with Aarey Police Station, Mumbai under Section 376, 377, 366, 312, 313, 420, 323, 504, 506 (II) of the Indian Penal Code and under section 66(e) of the Information Technology Act.

2] Heard the learned counsel for the applicant and the learned APP. Perused the record of investigation.

3] The prosecution case in brief is that, the prosecutrix was

residing separately from her husband. That the applicant by giving promise to marry with her, established physical relations with her. That, the prosecutrix become pregnant on two occasions and at the instance of the applicant the medical termination of the pregnancy was carried out in hospitals. The applicant subsequently resiled from the said promise. It is alleged that, the applicant took objectionable videograph of the prosecutrix on his mobile phone. In the premise the present crime is registered by the prosecutrix against the applicant.

4] The statements of prosecution witnesses reveal that, the prosecutrix was having relations with the applicant. It further appears that the prosecutrix was a consenting party to the said alleged act as contemplated under sections 376 and 313 of the Indian Penal Code. The record indicates that, the prosecutrix had also signed the relevant medical forms in the hospital before undergoing termination of pregnancy. The report received from the Forensic Science Labotaroy pertaining to the mobile phone of the applicant indicates that there was no video file found in the said mobile phone in the analysis. The applicant is in jail, since 8.6.2017 and the police have already completed investigation and submitted chargesheet.

5] In view thereof, the applicant can be released on bail.

Hence the following Order:-

i] The applicant be released on bail in CR No. 72 of 2017 dated 8.6.2017 registered with Aarey Police Station, Mumbai on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

ii] After his release from jail, the applicant shall attend the Aarey Police Station, Mumbai on every first Monday of the month between 11.00 a.m to 1.00 p.m

iii] The applicant shall attend all the dates before the Trial Court unless precluded for medical reasons.

iv] The applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

6] Applicant is permitted to furnish cash bail for a period of six weeks from today and during the said period, the applicant shall comply with the condition of furnishing solvent sureties.

7] Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)

Anil
Chandrakant
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by Anil
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2018.08.20
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