

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

BAIL APPLICATION NO.1615 OF 2019

Tahir Abdul Mujawar

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Shailesh D. Chavan, Advocate for Applicant.
- Ms. S. S. Kaushik, APP for the State/Respondent.
- Mr. Annasaheb Manjane, PI, Satara Taluka Police Station present.

CORAM : SARANG V. KOTWAL, J.

DATE : 22nd JULY, 2019

P.C. :

1. The applicant is seeking bail in connection with C.R. No.79/19 registered with Satara Taluka Police Station under Section 376(3)(m), 504, 506, 452 of IPC and under Section 66(e) of Information Technology Act.

2. The applicant is arrested on 14/3/2019 and since then he is in custody. The investigation is over and chargesheet is filed.

3. The FIR is filed by the prosecutrix herself on 13/3/2019. She has stated that on 1/9/2018 she got acquainted with the applicant. She has stated that applicant told her that he was in love with her but the prosecutrix did not reciprocate. It is her case that applicant threatened to commit suicide if she did not reciprocate. Thereafter, she accepted his proposal to have love relationship. It is mentioned in her FIR that on 12/11/2018 the applicant took away her mobile without her permission and told her that the mobile phone would be returned only if she had physical relations with him. He threatened to send her personal details on facebook to her family. Therefore, she consented to have physical relations. It is her case that on 18/1/2019 also, he established physical relations with her by blackmailing her. She has further stated in the FIR that on 12/3/2019 and 13/3/2019 he sent emails threatening her family members. Ultimately, the prosecutrix lodged her FIR.

4. Heard Mr. Shailesh Chavan, Ld. Counsel for the applicant and Ms. Kaushik, Ld. APP for the State.

5. Shri. Chavan has relied on photographs showing love relationship between the prosecutrix and the applicant. He also relied on the messages exchanged between them and in particular message dated 18/1/2019 wherein the prosecutrix is clearly seen to be on good terms with the applicant. He therefore submitted that the relationship was consensual and there was no force involved. He submitted that the offence under Section 376 is therefore not made out.

6. As against this, Ld. APP submitted that on both the occasions the physical relationship was established by the applicant by threatening her of publishing her private details stored in her mobile phone. He had taken away her mobile phone without her permission and was using it for his devious purpose. She invited my attention to the emails which are part of the chargesheet. The emails clearly show that the applicant was threatening the family members of the prosecutrix.

7. I have considered submissions of both sides. Apparently, there was some relationship between the prosecutrix and the applicant. The messages exchanged between them do show that their relationship was intimate. However, the first informant has explained in her FIR that she was compelled to keep that relationship with him because of the threats issued by the applicant. Her contention is supported by specific emails sent by the applicant. The family members of the prosecutrix were threatened. The applicant had threatened to expose the prosecutrix as well. Thus, it appears that though the relationship initially was on good terms, it had taken an ugly turn and has assumed dangerous proportion. Therefore, I do not find it safe to release the applicant on bail. There is real danger to the prosecutrix and her family if the applicant is released on bail. Hence, the application is rejected.

(SARANG V. KOTWAL, J.)