

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 526 OF 2019**

Keshav Radha Mohan Singh

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms. Anjali Patil for the Applicant

Ms. Veera Shinde, A.P.P for the Respondent-State

PSI Mr. Sharad R. Nimle from MIDC Police Station, is present

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 21st JUNE 2019

P.C. :

1 Learned counsel for the applicant seeks leave to amend to correct the applicant's father's name, which has been wrongly mentioned as 'Radhesham' instead of 'Radha Mohan'. Leave granted. Amendment to be carried out forthwith.

2 Heard learned counsel for the parties.

3 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 477 of 2018 registered with the MIDC Police Station, Mumbai, for the alleged offences punishable under Sections

376(1), 509, 500, 504, 506 of the Indian Penal Code and Section 66(e) and 67 of the Information Technology Act.

4 Perused the papers. According to the prosecutrix, aged 25 years, she was working for an Airline Company in Mumbai and was staying alone. She has stated that in December 2017, she met the applicant in a Hukka Parlour, called D9 Lounge in Marol, Andheri (East). She has stated that she and the applicant became friendly. She has stated that she was of the opinion that the applicant should financially support his family and hence, she told the applicant that she would find a suitable job for him. She has stated that pursuant thereto, they started visiting each other and also went out partying. According to the prosecution, she learnt later, that the money given by her to the applicant, was spent by him on alcohol and not for supporting his family financially. She has alleged that the applicant came to her house in a drunken state and when she asked him to behave properly, he did not listen to him. According to the prosecutrix, she had told the applicant that if he behaved well, she will look after him. According to the prosecutrix, the applicant had told his friends and her neighbour that she (prosecutrix) was his wife and that there were relations

between them. According to the prosecutrix, in September 2018, the applicant went to his village in Bihar and from there, the applicant called and asked her to send money. She has stated that she told him that she was sending money, but that was for the last time and that there will be no further relations between them. She has further stated that when the applicant came back to Mumbai on 17th September 2018 and called her to meet him, she did not go, pursuant to which, applicant came to her house on 3rd October 2018 and asked her to maintain their friendship, which she refused. It is alleged by the prosecutrix that in October 2018, the applicant sent their photo to her on face-book, which was objected to, by the prosecutrix's brother. Thereafter, it is alleged that the applicant went to the complainant's house on 8th October 2018 and abused her in filthy language and also assaulted her and had physical relations with her, without her consent. It is alleged by the prosecutrix, that the prosecutrix called the applicant on 10th October 2018 in the morning and asked for her house keys. She has stated that when she returned home, the applicant was present in the house and started questioning her, pursuant to which, there was a fight between them. It is alleged that the applicant again had physical relations with her, without her consent, that the applicant inserted

an iron rod as well as the upper portion of a bisleri bottle in her vagina. The applicant is also alleged to have clicked their photos in his mobile phone and threatened to load the same on social media, so as to spoil her reputation.

5 Learned counsel for the applicant submits that the allegations are false. She submits that although the applicant's mobile was seized under a panchanama, no photographs of the complainant were found on the said mobile phone. She further submits that the allegations made by the complainant against the applicant are not corroborated by medical certificate. She submits that from the prosecutrix's statement and the witnesses, it is evident that the relationship between the applicant and the complainant was consensual.

6 A perusal of the medical certificate shows that although the complainant has alleged that the applicant assaulted and abused her and had physical relations with her on 10th October 2018, four to five times and thereafter, blackmailed her, the medical history given by her does not corroborate the acts alleged by the prosecutrix in her FIR.

7 Learned A.P.P also does not dispute the fact that the medical evidence does not corroborate the prosecutrix's allegations, that an iron rod and plastic bottle was inserted in her private part.

8 Learned counsel for the applicant has tendered an affidavit of the applicant. The same is taken on record and marked 'X' for identification. The applicant in the said affidavit has undertaken not to contact the complainant in any manner or pressurize her or tamper with the witnesses. He has also undertaken not to contact the complainant through social media, etc. He has also undertaken to remain present on each and every date in the trial Court.

9 Having regard to the peculiar facts and circumstances of the case and having regard to the affidavit filed by the applicant, the application is allowed on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 20,000/- with one or two local sureties in the like amount;

(ii) The applicant shall attend the concerned Police Station on the first Monday of every month between 11:00 a.m. to 12:00 noon till the conclusion of the trial;

(iii) The applicant shall not tamper the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial;

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

10 The application is allowed in the aforesaid terms and is accordingly disposed of.

11 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

12 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.