

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 677 OF 2019**

Latif Sadiqali Shaikh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Haviullah Kuddus for the Applicant

Mr. S. V. Gavand, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 18th JULY 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 161 of 2018 registered with the Aarey Police Station, for the alleged offence punishable under Section 376 of the Indian Penal Code.

3 Perused the papers. The prosecutrix/complainant, aged 20 years has stated that she got acquainted with the applicant aged 21 years, as they were working in the same office. She has alleged that in January

2018, the applicant asked her to come to Chota Kashmir Garden, Aarey Colony, Goregaon, to meet his friend, pursuant to which, she went there. She has stated that the applicant's friend was not there, however, she and the applicant sat and started chatting in the garden. She has stated that the applicant gave her a pill and a cadbury chocolate, as a result of which, she started feeling giddy and intoxicated. She has stated that the applicant took her in the jungle and had physical relations with her, without her consent. She has stated that as she was under a state of intoxication, due to the pill, she could not retaliate. She has stated that after the said episode, which took place, they sat in the garden till 7:00 p.m. in the evening and thereafter returned in a rickshaw, home. She has stated that again on the next day, she went to meet the applicant in Chota Kashmir and they sat in the garden chatting the entire day. She has stated that thereafter, she never met the applicant. She has further stated that as she missed her periods, she realised that she was pregnant and informed the applicant about the same, who gave her pill to abort the pregnancy. She has stated that she did not consume the said pill and that later, she gave birth to a child. The DNA report confirms that the child is of the applicant. Whether or not the incident took place with the consent of the prosecutrix is a matter which

will be decided by the trial Court. The applicant is in custody since July 2018. Investigation is complete and charge-sheet is filed.

4 Accordingly, 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 more local sureties in the like amount;
- (ii) The applicant shall not enter the jurisdiction of Goregaon Police Station, till the conclusion of the trial;
- (iii) The applicant shall attend the Aarey Colony Police Station on the first Saturday of every month from 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;
- (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) 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;

(vi) The applicant to cooperate with the conduct of the trial and attend the trial Court on every date of hearing, unless exempted by the trial Court;

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

(viii) 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.

5 The application is accordingly disposed of.

6 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.

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

REVATI MOHITE DERE, J.