

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

CRIMINAL BAIL APPLICATION NO. 967 OF 2019

Shekhar Ananta Veer	...	Applicant
V/s		
The State of Maharashtra	...	Respondent

Mr. Satyavrat Joshi i/b Sunil S. Kamble, for the Applicant.
Smt. A.A. Takalkar, APP for the State-Respondent.

CORAM : PRAKASH D. NAIK, J.

DATE : 7th November, 2019

PC :

This is an application for bail in connection with C.R. No. 478 of 2018, registered with Swargate Police Station, District - Pune, for the offences punishable under Sections 376-D, 406, 507 of the Indian Penal Code ("IPC", for short). The FIR was lodged on 25/11/2018. The applicant was arrested on 29/11/2018.

2 The case of the complainant is that she was acquainted with Poonam Katke on face-book. On 21/11/2018, Poonam sent one mobile number. The complainant gave a call on said cell phone number. The receiver of call was Abhijeet Khandale. He told her to meet him at Swargate Bus Station on next day. He also

said that he would marry her. On 22/11/2018, several calls were made by Abhijeet. The complainant met Abhijeet at 3-00 pm She identified him on the basis of photograph sent by Poonam. The accused Abhijeet took her on his motorcycle and went through Khed Shivapur Ghat and checked in Sarthak lodge. He stated that he would marry her. They had physical relationship. Abhijeet called his friend Veer Shelar at Sarthak lodge at room No. 104. He told complainant to have physical relationship with Veer Shelar. She refused to do so. Abhijeet said they would shortly marry and persuaded her to have physical relation with Shelar. Abhijeet was standing below the lodge at that time. Thereafter, complainant and Abhijeet went to jewellery shop. On 23/11/2018, Abhijeet again called her. They again went to Sarthak Lodge in room No. 104 and Abhijeet again had sexual intercourse with her. She gave his cell phone to Abhijeet by removing her SIM card. Thereafter, Abhijeet threatened her that he has details about her friends and he would lodge complaint against her. In supplementary statement dated 29/11/2018, the complainant has stated that accused no.1 Abhijeet Khandale had clicked video while they were having physical relationship and shown it to another person

namely, Veer Shelar. It is also mentioned that accused no.1 also told the victim to have relationship with Shekhar Veer. She identified applicant as the same person. She had sexual relationship with him. The statement of the victim was recorded u/sec. 164 of Criminal Procedure Code, in which she stated that she had sexual relationship with Abhijeet and another person 'Veer Shelar'. In the medical history, however, there is no reference of the name of any other person with whom accused no.1 had forced her to have physical relationship.

3 Learned Advocate for applicant submitted that false case has been registered at the instance of complainant. The contents of FIR and supplementary statement infer that there was consensual relationship. Complaint was lodged on 25/11/2018 although incident had occurred on 22/11/2018 and 23/11/2018. It is difficult to accept the version of complainant that she was forced to have relationship. Learned APP submitted that the victim was compelled to have relationship. Specific role has been assigned to applicant. There is evidence to show involvement of applicant.

4 On perusal of record, it would indicate that the victim is a major lady. As per FIR the complainant was acquainted with Poonam Katke on face-book. She gave phone number of Abhijeet to victim/complainant. On 22/11/2018, complainant met Abhijeet Khandale (Accused No.1). Both of them went to Sarthak lodge. The accused no.1 promised her of marriage. He committed sexual intercourse. As stated in FIR, the accused no.1 and complainant met for first time on 22/11/2018 and she accompanied him to lodge. On that day, accused no.1 called another person referred to as Veer Shelar in the said room. The accused no.1 told complainant to have sexual relationship with that person as accused no.1 would marry her. The version of complainant speaks volumes of doubt that it was forced relationship. It is further alleged that Veer Shelar had sexual intercourse with complainant on the same day at same place i.e. 22/11/2018. In spite of aforesaid incident, the complainant again accompanied accused no.1 on 23/11/2018 at the same lodge and they had physical relationship. In supplementary statement dated 29/11/2018 the complainant had stated that the first incident occurred on 22/11/2018. She has not referred to presence of applicant and commission of alleged act on

22/11/2018. However, it is stated that on 23/11/2018, the complainant went to Sarthak lodge with accused no.1. He committed sexual intercourse. During the course of the said act, accused no.1 made video call to another person Veer Shelar. Accused no.1 threatened her that if she do not have sexual relation with said person, he would not marry her. Thereafter, the said person came to lodge and without her consent he had sexual intercourse with complainant. She also stated that person shown to her by police namely Shekhar Ananda Veer is the same person, who had visited lodge as stated above.

5 Thus, there is variation in statement dated 25/11/2018 and 29/11/2018. In the first statement (complaint) the applicant has allegedly participated in crime on 22/11/2018, whereas in second statement, the applicant committed the alleged act on 23/11/2018. There is reference of video call in the second statement which was not referred in complaint. In the statement recorded under Section 164 of Criminal Procedure Code, the complainant has reiterated what is stated in supplementary statement dated 29/11/2018. In the medical case papers history provided by complainant has

been recorded, wherein it is stated that, victim was introduced to Abhijeet Khandale, when his sister sent his photo to victim as proposal for marriage. Later they met at Swargate and he took her to Sarthak lodge at Khed Shivapur and had penetrative sexual vaginal intercourse with her. They again met at the same place and had penetrative sexual vaginal intercourse on 23/11/2018. No history of physical assault. No history of unnatural sexual intercourse. Victim was examined on 25/11/2018. The name of applicant is not reflected. There is no reference of two persons sexually abusing her. There is no reference of threats or promise.

6 In the light of aforesaid factual matrix, case for grant of bail is made out. Investigation is complete and charge-sheet is filed. Hence, the order as follows:-

ORDER

- (i) Bail Application No. 967 of 2019 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R.No. 478 of 2018 registered with Swargate Police Station, District - Pune, on his furnishing PR Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

(iii) The applicant shall report Swargate police station, District- Pune once in a month on first Saturday of the month between 10:00 a.m. to 12:00 p.m. till further order;

(iv) The applicant shall not tamper with the evidence and shall not approach the complainant during the pendency of the trial.

(v) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)