

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1228 OF 2019**

Rubeena Noormohammad Shaikh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Prabhanjay R. Dave I/b Mr. Harshad Sathe and Mr. Saurabh Butala for the Applicant

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

API Mr. Dilip Vasant Rasam from Rabodi Police Station, is present

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

P.C. :

1 Learned counsel for the applicant seeks leave to amend to delete the name of the prosecutrix. Leave granted. Amendment to be carried out forthwith.

2 Heard learned counsel for the parties.

3 By this application, the applicant seeks her enlargement on bail in connection with C.R. No. I-205 of 2018 registered with the Rabodi Police

Station, Thane, for the alleged offences punishable under Sections 376, 354A, 386, 420, 323, 506(2) r/w 34 of the Indian Penal Code.

4 Perused the papers, in particular, the statement of the prosecutrix aged 35 years. According to the prosecutrix/complainant, she met the applicant's husband-Noormohammad, sometime in 2015 through her friend, as she was having trouble with her husband at home. The prosecutrix has stated that her friend disclosed to her that Noormohammad (applicant's husband) does black magic and that he would remove all the ill-effects in the house, pursuant to which, she went and met Noormohammad; that Noormohammad told her that he will have to perform some rituals and demanded an amount of Rs. 80,000/- from her for the same; the complainant paid the said amount of Rs. 80,000/- to Noormohammad, pursuant to which, he mixed some powder in water and asked her to drink the same; that in 2016, the complainant wanted to start a boutique and accordingly Noormohammad told her that she could start the boutique with his sister, pursuant to which, the prosecutrix gave an amount of Rs. 18,000/- to Noormohammad for starting the said boutique; that during the said period, the prosecutrix met the applicant, who told her that

her husband would help her with the problems with the help of black magic; that Noormohammad and applicant also asked her to read Quran. According to the complainant, in February 2017, she invited Noormohammad and the applicant to her home. On going to the complainant's home, it is alleged that Noormohammad told her that there was some "*Kaala Saya*" in the house and that she will have to remove the same. She has further alleged that the applicant told her that if she wanted to have a happy family, her husband will have to do black magic and for that, she will have to have physical relations with her husband-Noormohammad. The complainant has further stated that Noormohammad also called her and asked her to have physical relations with him or else, her family will be destroyed. She has stated that at one such occasion, when she had gone to meet Noormohammad, Noormohammad and the applicant did not allow the complainant to leave the house, pursuant to which, Noormohammad had physical relations with her, which act was allegedly filmed by the applicant.

5 According to the complainant, from 2015 to 2017, she had given a sum of Rs. 1,48,000/- to Noormohammad for performing black

magic and even her mother had given him Rs. 30,000/-. She has further stated that Noormohammad and the applicant also took an amount of Rs. 50,000/- after threatening to make the video of physical relations, viral. Admittedly, nothing incriminating was found from the applicant.

6 Having regard to the peculiar facts, the role of the applicant and the fact that the applicant is a lady, 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. 25,000/- with one or two local sureties in the like amount;

- (ii) The applicant shall attend the concerned 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;

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

(iv) The applicant shall inform her 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 and attend the trial Court on every date of hearing, unless exempted by the trial Court;

(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.

7 The application is accordingly disposed of.

8 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.

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

REVATI MOHITE DERE, J.