

Anand

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

BAIL APPLICATION NO. 1241 OF 2019

Ganesh Ashok Shinde @ Sunny .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Suraj L. Vaswani, Advocate, for the Applicant
Mrs. P. P. Shinde, APP, for the Respondent – State
Mr. Vijay Dandavate, PSI, Parksite Police Station, Vikhroli(W),
Mumbai present

CORAM : REVATI MOHITE DERE, J.

DATE : 28.08.2019

P. C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 335 of 2018 registered with the Parksite Police Station, Mumbai for the alleged offences punishable under Sections 376(2)(N), 313 & 506 of the Indian Penal Code.

3. Perused the papers. The Applicant is the cousin of the prosecutrix, aged 20 years. According to the prosecutrix, the Applicant was residing with the prosecutrix's family. It is alleged by the prosecutrix that on 24.03.2018, when the prosecutrix was alone at home, the Applicant expressed his love for her, however, she refuted, since

they were relatives. It is further alleged that the Applicant told her that they would get married and had physical relations with her without her consent. She has further alleged that on 15.06.2018, the Applicant took her to a lodge near Khadavli Railway Station and again had physical relations with her and thereafter, continued to have physical relations with her. The Applicant is also alleged to have given her pills for abortion. Learned counsel for the Applicant relied on certain letters written by the prosecutrix to the Applicant to show that the relations between the Applicant and the prosecutrix were consensual.

4. On the last date, learned APP was directed to verify the said letters annexed to the Application. Today, learned APP on instructions of the investigating officer, who is present in Court states that the said letters were written by the prosecutrix to the Applicant. A perusal of the said letters shows that the prosecutrix was in love with the Applicant and prima facie, it appears that the relations were consensual between them. Be that as it may, whether the relations were consensual or not, is a matter which will be decided by the trial Court. The Applicant is in custody since July, 2018 and investigation is complete and charge-sheet is filed.

5. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

- (i) The Applicant be released on **cash bail** in the sum of Rs. 15,000/-, **for a period of six weeks**;
- (ii) The Applicant shall within the said period of six weeks, furnish P. R. Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;
- (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 not reside in the same vicinity, where the prosecutrix is residing;
- (v) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released 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 co-operate with the conduct of the trial.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

7. 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.

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

(REVATI MOHITE DERE, J.)