

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1686 OF 2019**

Ashwin Ramlakhan Pandey

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Kalpanath H. Giri for the Applicant

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

API Mr. Sandip Mhaske from Dindoshi Police Station is present

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 1st AUGUST 2019

P.C. :

1 At the outset, learned counsel for the applicant seeks leave to amend to delete the name of the prosecutrix. Leave granted. Amendment 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. 713 of 2018 registered with the Dindoshi Police Station, Mumbai, for the alleged offences punishable under Sections 376, 420, 323, 504, 506 of the Indian Penal Code.

4 According to the prosecutrix, aged 30 years, she was employed with State Street MLC Company as an Accountant, at BKC, Bandra. According to the prosecutrix, the applicant was also employed in the same company and as such, they met each other. According to the prosecutrix, they became friends on face-book on a request from her to the applicant. Pursuant thereto, they both started chatting with each other. It is alleged that on 27th August 2018, the applicant visited the prosecutrix's house and remained in her house for the entire day. The applicant is also alleged to have proposed marriage to the prosecutrix, which was accepted by her. It is further alleged by the prosecutrix that on 24th September 2018, at about 10:00 a.m. the applicant visited her house and that he was carrying beer with him. It appears that there was a quarrel between the prosecutrix and the applicant, as the applicant had received an 'I love you message' on his phone. It is alleged by the prosecutrix that the applicant administered her beer, as a result of which, she felt intoxicated, pursuant to which, the applicant had forcible intercourse with her. It is further alleged that the applicant apologized to her and stated that he would be marrying her. According to the prosecutrix, the applicant, at the same time, was also

having an affair with another girl. The prosecutrix has alleged that the applicant borrowed a sum of Rs. 6,65,000/- from her and also an amount of Rs. 1,00,000/- from another girl. She has further stated that the applicant on various occasions, giving various reasons, took an amount of Rs.6,86,000/- from her. She has stated that she later learnt that the applicant was a married man and that he had filed a divorce by mutual consent petition in the Family Court at Bandra. She has further stated that the applicant did not return the money taken from her, as promised.

5 Learned counsel for the applicant submits that the relations between the applicant and the prosecutrix were consensual. Learned counsel for the applicant has also tendered an affidavit of the applicant that he will not contact the prosecutrix and that he will abide by the conditions imposed by this Court. The said affidavit is taken on record. Learned counsel for the applicant also states that the applicant, without prejudice to his rights and contentions, is ready to deposit 50% of the amount allegedly taken by him by the prosecutrix. He states that he will deposit a demand draft of Rs. 3,43,000/- in the Registry of this Court and that he will not apply for return of the said amount till the case is finally disposed of. Both

the prosecutrix and the applicant are adults. Whether the relations were consensual or not or whether there was breach of promise to marry, are the matters, which will be decided by the trial Court. The applicant is in custody since 21st December 2018. Investigation is complete and charge-sheet is filed.

6 Considering the aforesaid, the application is allowed on the following terms and 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 attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m. for a period of 12 months from the date of his release, except if the date in the trial Court falls on a Saturday;

(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 all the dates before the trial Court, unless exempted;

(vii) The applicant shall file an undertaking with regard to clauses (iii) 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.

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.