

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

**CRIMINAL BAIL APPLICATION NO. 2125 OF 2019
WITH
CRIMINAL APPLICATION NO.1117 OF 2019**

Salim Sadruddin Khatib

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Y.R. Mishra i/by Upendra A. Lokegaonkar for the Applicant.
Mr. Rakesh R.Singh for the Intervener in Application No.1117/2019.
Mr.S.R.Agarkar, APP for the State.
Mr. Santosh B. Tagad, Police Inspector from Shil Dygher Police Station present.

CORAM : SANDEEP K. SHINDE, J.
DATE : 08th NOVEMBER 2019.

P.C.

- 1) Heard the learned counsel for the applicant and the learned APP for the respondent – State.
- 2) The applicant is accused in CR No. I-118/2018 registered with Shil Daighar Police Station, District Thane for the offences punishable under Sections 406, 420, 376, 354, 354A, 506(2), 511 read with 34 of the Indian Penal Code and under Section 3 and 25 of the Arms Act.
- 3) The applicant and his father are accused in the subject crime. The applicant's father has been granted pre-arrest bail by this Court on

9.8.2018. It appears that in July, 2018 the complainant reported to the Police Commissioner, Thane that the applicant on the promise of high returns, extracted a sum of Rs.10,034,000/- from the complainant and her relatives. It is alleged, in April, 2017 the applicant attempted to outrage her modesty and also promised to marry her. In a complaint it is stated that in December, 2017 the applicant issued three cheques in the sum of Rs.5,00,000/- each in her name, drawn on HDFC Bank, Santacruz Branch. In support of the alleged transaction the complainant has relied on documents which are, titled as “Halal loan agreements”, dated 8.4.2011, 1.9.2011, 1.6.2012, 15.9.2012, 1.10.2013 and 1.1.2014.

4. The complainant is a insurance agent. It is her case that her relatives and father advanced money to the applicant, who had, promised high returns However, neither he paid the interest nor returned the principal amount. In the written complaint she alleged that the complainant had threatened of dire consequences if efforts are made to recover the amount as he has meaningful connections with ‘underworld’ persons. On this state of allegations, the aforesaid crime came to be registered and the applicant was arrested.

5) The averments in the complaint that the applicant attempted to outrage her modesty in April, 2017 are not probable. It is because the complainant states that in Sept./December, 2017 the applicant had issued

three cheques of Rs.5,00,000/- each to her but on his request she did not deposit the same. It is rather strange that a lady whose modesty has been outraged by a person, would rely on the statement of such person and would not deposit the cheques in the sum of Rs.15,00,000/-. It is not explained either by the prosecution or by the learned counsel the source of complainant, to advance such huge loan amount to the applicant.

5) Be that as it may, the charge sheet in this case has been filed. Nothing has been pointed out by the prosecution as to why his custody is further required. The trial in this case is not likely to commence in near future. The allegations of sexual assault under Section-376 of the I.P.C. appears to have been made at very late stage. Thus, upon taking over all view of the case, I am inclined to release the applicant on bail and hence, the following order.

ORDER

- a) The applicant shall be released on bail, on executing P.R. Bond in the sum of Rs.50,000/- with one or more local sureties in the like amount;
- b) The applicant shall attend the concerned Police Station twice in the month on each Tuesday, a week commencing from the 25th November 2019 .
- c) The applicant shall inform particulars of his 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 within seven days from the date on which the order is uploaded;

- d) The applicant to co-operate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;
- e) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- f) The applicant shall not enter into the area within the jurisdiction of Mumbra Police Station where the complainant ordinarily resides.
- g) If there are two consecutive defaults either in attending the Police Station, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail;
- h) The applicant shall not leave Mumbai and Thane District without first informing concerned Police Station.
- 6) The application is disposed off in the aforesaid terms.
- 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.
- 8) In view of the above order, the application for intervention

bearing Criminal Application No.1117/2019 is disposed off.

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

(SANDEEP K. SHINDE, J.)