

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

CRIMINAL BAIL APPLICATION NO.2157 OF 2018

Nikhil Gorakshnath Fodse	.. Applicant
Vs.	
State of Maharashtra	.. Respondent

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Mr.Rajaram V. Bansode, Advocate for the Applicant.

Ms.A.A. Takalkar, APP for the Respondent – State.

Mr.V.V. Devre, Nerul Police Station, Navi Mumbai, Present.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 10, 2019.

P.C. :

This is an application for bail in connection with C.R.No.242 of 2018, registered with Nerul Police Station, Navi Mumbai, for the offences punishable under Sections 367(D), 376(2)(e), 323, 504 and 506 of Indian Penal Code ("IPC", for short) and under Section 67(A) of Information Technology Act ("IT Act", for short).

2 Complainant is the women aged about 35 years. Initially the complaint was lodged on 6th July,2018, with Sinhgad Road Police Station, Pune, which was transferred to Nerual Police

Station, Navi Mumbai. It is alleged that the complainant was acquainted with the applicant. In April 2017, the applicant allegedly took the complainant to a lodge and forcibly had sexual intercourse with her. She was threatened that her obscene video will be made viral. It is further alleged that two other accused had also sexually assaulted the complainant. Second incident of sexual assault qua the applicant had allegedly occurred in June 2018, and, thereafter, First Information Report ("FIR", for short), was lodged. Complainant had also alleged that the applicant had mortgaged her Mangalsutra and had obtained loan. She was abused and threatened from time to time.

3 Applicant was arrested on 15th July, 2018. On completing investigation, charge-sheet has been filed. Charge-sheet contains documents including the register of lodges where the applicant accused and the victim had visited. Learned advocate for the applicant submitted that the record indicate that the applicant and the complainant had visited the lodge 41 times. The entries in the register of lodges indicate that they had visited the lodge from May 2016, onwards. In the FIR, however, the complainant has alleged that she was acquainted with the applicant in April 20-17, and, at the time the applicant took the

victim to the lodge and had forcible intercourse with her. Learned APP submitted that the statement of the complainant recorded under Section 161 as well as under Section 164 of Code of Criminal Procedure attributes overtact to the applicant. It is submitted that the other accused who are allegedly involved in this crime have been arrested and they are in custody. It is submitted that the house search of the applicant was conducted and the receipt with regard to mortgage of Mangalsutra belonging to complainant was recovered from the said place which corroborates the version of the complainant. Having perused the documents and in the light of the factual matrix narrated hereinabove, it is apparent that the relationship is consensual and on several occasion the complainant and applicant had allegedly visited lodges. Applicant is in custody from the date of arrest and on completing investigation, charge-sheet is filed. Hence, case for grant of bail is made out.

4 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.2157 2018, is allowed;

- (ii) Applicant is directed to be released on bail in connection with C.R.No.242 of 2018, registered with Nerul Police Station, Navi Mumbai, on his furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant is directed to report Nerul Police Station, Navi Mumbai, on first Saturday of the month between 11:00 a.m. to 01:00 p.m., till further orders;
- (iv) Applicant shall not tamper with the prosecution evidence;
- (v) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)