

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2376 OF 2019

Hiranya Kumar Gahan

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Umesh Vasant Mohite, Advocate for the Applicant.

Mr. Ajay Patil, APP for the Respondent-State.

Mr. Nimle, P.I. -M.I.D.C. Police Station, Andheri (East), Mumbai.

CORAM : SANDEEP K. SHINDE, J.

DATE : 15TH NOVEMBER, 2019

P. C. :

1. Heard learned counsel for the parties. The Investigating Officer is present.

2. Applicant is seeking his enlargement on bail in C.R. No.284 of 2019, registered with the M.I.D.C. Police Station, Andheri for the alleged offences punishable under Section 376 (2)(n), 506 of

the Indian Penal Code read with Section 67 of the Information Technology Act.

3. Victim (complainant) is 31 years old married lady. Applicant is 35 years old and admittedly a family friend of the complainant. Victim alleged that in September 2017, the applicant made sexual advances and unwelcome gestures towards her with the aim of gaining some sort of sexual favour. She alleged thereafter applicant sexually exploited her at the knife point. She alleged he snapped her obscene photos/images and blackmailed and threatened to make it public. On this count she was repeatedly sexually exploited by the applicant. She reported this fact to her husband on 18.06.2019 and report was made to the Police on 20.06.2019. On 21.06.2019 the applicant came to be arrested.

4. Learned counsel for the applicant submits that applicant has been falsely implicated in the case. He submits that investigation is over and trial is not likely to commence in the near future. He has brought to my notice screenshots of text messages exchanged

between applicant and victim. I have perused the same. It appears victim had called the applicant on his mobile on 11.08.2018, 14.08.2018, 20.08.2018 and 18.10.2018. One screenshot at page No.103 shows victim had agreed to call the applicant after sometime. There are photographs on the record which show that the applicant was a family friend of complainant. Besides, there is a transcript of conversation between the victim and her husband which suggest that the victim's husband was aware of the relationship between applicant and victim.

5. Evidence on record *prima facie* suggest interpersonal relationship between applicant and victim involving a family friend and acquaintances. A victim is married mature person. Though it is alleged that the applicant advanced sexual advances in September 2017 and thereafter sexually exploited her, however, complaint was lodged in June 2019. There is no explanation on record as to why the complaint was lodged nearly after two years. It is not explained under what circumstances and what prompted the victim to call on

his mobile in August 2018 as evident from the screenshots placed on record.

6. The investigation in the case is over. Applicant has permanent residence at Mumbai. It is possible to secure his presence by imposing the conditions.

7. Thus, in view of the facts of the case applicant is directed to be released on bail on the following terms and conditions :-

- (i) The applicant is directed to be released on executing P. R. Bond in the sum of Rs. 50,000/- with the one or more sureties in the like amount ;
- (ii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iii) 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;

(iv) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted ;

(v) The observations in this order being *prima facie* in nature, shall not bind the Learned Trial Court.

8. The application is allowed in the aforesaid terms.

(SANDEEP K. SHINDE, J.)