

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2213 OF 2018

Sushantkumar Ramchandra Muduli, Age 24 years, Occ.Service, R/o.Tulsidas Mhatre Chawl, Room No.2, Ghansoli Village, Navi Mumbai.	Applicant
versus	
The State of Maharashtra	Respondent

Mr.K.M.Shine for applicant.
Mr.S.R.Agarkar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 29th January 2019

PC :

1. The applicant is seeking bail in connection with CR No.I-408 of 2017 registered with Rabale Police Station for offences under Sections 376, 506 of Indian Penal Code r/w Section 67(A) of Information and Technology Act.

2. The case of prosecution is that the complainant had lodged the FIR on 19th December 2017. According to the complainant, she was acquainted with the applicant. On 5th May 2017 the applicant had clicked photograph of the complainant while she was feeding her child. The accused then called her at his home and allegedly told her to take bath in his bath room. The accused had threatened her that he would upload the photograph clicked on 5th May 2017. While the victim was taking bath in the house of accused, he had allegedly recorded video of the complainant. It is further alleged that under the threat the accused has sexual intercourse with the complainant.

Subsequently the accused had forwarded the video to the husband of the complainant. Pursuant to that the FIR was lodged on 19th December 2017. The applicant was arrested. On completing investigation charge sheet is filed.

3. During the course of investigation the cell phone of the applicant was seized by police. It is the prosecution case that the applicant has forwarded video recording of the complainant to the husband of complainant. Learned counsel for applicant submitted that the relationship was apparently consensual. The applicant has been falsely implicated in this FIR. According to the complainant, she was acquainted with the applicant and accused has physical relationship with her on 6th June 2017. It is submitted that the said version is falsified by the fact that the alleged video was recorded on 17th April 2017. The complainant's version is that the photograph was clicked on 5th May 2017 and thereafter there was physical relationship between the complainant and the accused. If the video was recorded prior to that, the version of the complainant is apparently false. Learned APP submitted that there is sufficient evidence against applicant. The victim was subjected to sexual assault under threat of uploading photograph. Objectionable video was sent by applicant to husband of victim.

4. I have perused the documents on record. According to the complainant, the photograph was clicked on 5th May 2017 and thereafter the accused had called her at his house which was followed by sexual intercourse on repeated occasions. The statement of one of the witnesses recorded on 24th December 2017 indicate that the complainant used to visit the house of accused. The factual

matrix indicates prima facie that the relationship was consensual. The applicant is in custody from the date of arrest. The investigation is completed and charge sheet is filed.

5. Considering the aforesaid circumstances, case for grant of bail is made out. Hence, I pass following order :

ORDER

- (i) Criminal Bail application No.2213 of 2018 is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with CR No.I-408 of 2017 registered with Rabale Police Station, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall not approach the complainant and shall not meet her family members;
- (iv) The applicant shall furnish his address and cell number to the investigating officer and shall report Rabale Police Station once in a month on every first Saturday between 11 am and 1 pm;
- (v) The applicant shall not tamper with the evidence and shall attend the Trial Court proceedings regularly, unless exempted by the Trial Court for some reason.

(PRAKASH D. NAIK, J.)

MST