

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2511 OF 2019

Ramji Joginder Jaiswal ... Applicant

Versus

The State of Maharashtra Respondent

Mr. Mohammad Qais h/for Khan Mohd Yusuf Pathan for the Applicant.

Ms. P.P. Shinde, APP for the State.

PSI, S.R. Nimle, MIDC Police Station, present.

CORAM : REVATI MOHITE DERE, J.
DATE : 25^h SEPTEMBER, 2019

PC :

1. At the outset, learned counsel for the applicant seeks leave to amend to delete the name of the prosecutrix wherever it appears in the application. Leave granted. Amendment to be carried out forthwith. Learned counsel for the applicant also seeks leave to remove the photographs annexed to the application. The same be done forthwith.
2. Learned learned counsel for the parties.

3. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.114 of 2019 registered with M.I.D.C. Police Station, Mumbai, for the alleged offences punishable under Sections 376, 506, 500 of the Indian Penal Code and under Sections 67(A) of I.T. Act.

4. According to the complainant/prosecutrix, aged 24 years, she was working as a Teacher at the relevant time. She has stated that the applicant was her brother's friend and was working as a driver. She has alleged that on one occasion, the applicant had proposed marriage, however, she had refused the proposal. She has further alleged that on 14th October, 2018, when she was going to attend an engagement ceremony of her friend, the applicant met her and requested her to sit on his motorcycle. It is alleged that the applicant took some objectionable photographs of them and later sent it her on whatsapp and started blackmailing her. She has stated that in November, 2018, the applicant took her to a lodge and again took objectionable photographs and started blackmailing her,

by threatening to send the said photographs to her relatives. She has stated that the applicant had physical relations with her on four occasions and had taken photographs of the same. She has stated that the applicant had even prepared a fake face-book account in her name and tagged her relatives to the said face-book account. She has stated that when her marriage was fixed to some other boy, the applicant sent her photographs to the said boy to whom she was to get married.

5. Learned counsel for the applicant submits that the relations between the parties were consensual. Learned counsel relied on certain photographs and sms's to show the nature of the relationship between the parties. Whether the relationship was consensual or not is a matter which will be decided by the Trial Court. Learned counsel for the applicant has also tendered an affidavit of the applicant, which is taken on record and marked "X" for identification. In the said affidavit, the applicant had undertaken not to enter and visit the locality wherever the complainant is residing. He has also undertaken not to circulate the photographs, videos of the

complainant/prosecutrix in any manner i.e. either on face-book, social media, mass media etc. He has also undertaken not to tamper or contact the witnesses or complainant or any other person related to the said case. The applicant is in custody since March, 2019. Investigation is complete and charge-sheet is filed.

6. Considering the aforesaid and in particular the undertaking given by the applicant, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/- with one or two local sureties in the like amount;
- ii) The Applicant shall report the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- iii) The applicant shall not enter the jurisdiction of M.I.D.C., Police Station, Mumbai except for the purpose of reporting the concerned police station, as stated aforesaid.

iv) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

v) The applicant shall not use the photographs or videos of the complainant/prosecutrix in any manner whatsoever.

vi) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

vii) The Applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial Court;

viii) An undertaking to the aforesaid clauses (ii) to (vii), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

ix) 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 conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

7. The Application is allowed and disposed of in above terms.

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.