

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2802 OF 2019**

Dhiraj Shah	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Pravartak Pathak for the Applicant

Mr. A. A. Palkar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
MONDAY, 14th OCTOBER 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 131 of 2019 registered with the Juhu Police Station, Mumbai, for the alleged offences punishable under Sections 376 and 420 of the Indian Penal Code.

3 Perused the papers. According to the complainant, aged 30 years, she met the applicant aged 29 years when he was employed in a medical shop in her neighbourhood. She has alleged that she got acquainted with him and that she used to visit the said shop for 1½ years whenever she needed to purchase medicine. The prosecutrix has alleged

that over a period of time, they became friendly and they used to go out frequently. She has alleged that the applicant had demanded physical relations with her, however, she refused, and that on 1st November 2018, the applicant forced himself on her against her wishes. She has further stated that on 2nd November 2018, the applicant took her to a temple at Oshiwara and married her and again had physical relations with her. According to the prosecutrix, on 23rd November 2018, she learnt that the applicant was married about four years prior. According to her, when she questioned the applicant, he started giving evasive replies. According to her, when one of her friend-Niraj Mishra a resident of Oshiwara, questioned the applicant about marriage with the complainant, the applicant denied the same. She has stated that because of the stress, sometime in April 2019, she consumed sleeping tablets and tried to commit suicide. In April 2019, she lodged the aforesaid complaint alleging the aforesaid offences as against the applicant.

4 Learned counsel for the applicant submits that the allegations made against the applicant are false and baseless. He submits that the prosecutrix always knew that the applicant was a married man. Learned counsel relied on the representation made by the applicant to the Police Commissioner and other Authorities on 29th January 2019 (prior to the

lodging of the aforesaid complaint), stating therein that the prosecutrix was threatening him that she will lodge a false complaint against him and defame him. He submits that the applicant has in detail, in the said complaint, stated the manner in which he met the prosecutrix and that the prosecutrix was aware that he was a married man and despite the same, wanted to have relations with him.

5 The prosecutrix and the applicant are both adults. Whether the relations were consensual or not, is a matter which will be decided by the trial Court. The applicant is in custody since April 2019. Investigation is complete and charge-sheet is filed.

6 Considering the aforesaid, the application is allowed on the following terms and conditions :

ORDER

- (i) The applicant be released on cash bail in the sum of Rs. 15,000/-, for a period of six weeks;
- (ii) The applicant shall within the said period of six weeks, furnish P.R. Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

- (iii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 11:00 a.m, for a period of 12 months from the date of his release;
- (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (v) 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;
- (vi) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;
- (vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7 The application is accordingly disposed of.

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.