

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

CRIMINAL BAIL APPLICATION NO.2794 OF 2018

Dinesh Pandurang Pawar	... Applicant
Vs.	
State of Maharashtra & Anr.	... Respondents

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Mr.Ujjwal Gandhi a/w. Ms.Arati Bhoir i/b. K.R. Shah, Advocate for the Applicant.

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

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CORAM : PRAKASH D. NAIK, J.

DATE : JANUARY 31, 2019.

P.C.

This is an application for bail in connection with C.R.No.248 of 2018, registered with Powai Police Station, Mumbai, for the offence punishable under Sections 376, 376(N), 384, 501 and 506(2) of Indian Penal Code ("IPC", for short) and under Section 66E, 67B of Information Technology Act ("IT", for short). First Information Report ("FIR", for short) was lodged on 2nd May, 2018, by the victim who is aged about 28 years. According to complainant, she was acquaintance the applicant-accused in 2015. The acquaintance was developed into close friendship, and, subsequently they fell in love. In February 2016, the applicant took the complainant to a lodge at Powai. There was physical relationship. Thereafter repeatedly there was sexual relationship

between both of them. Subsequently, there was dispute amongst them. Accused kept on demanding sexual favours, which was refused by the complainant. He also threatened the complainant that he would kidnap her daughter. Hence, she again agreed for having physical relationship. In January 2018, the accused and applicant had sexual intercourse. However, thereafter, the accused have forwarded obscene messages on the Facebook of two friends of the complainant. It is further alleged that one and half months ago, the accused also forwarded a nude video of the complainant to her friend. Investigation is completed and charge-sheet is filed.

2 Learned counsel for the applicant submits that there is no cogent evidence to establish that the applicant has forwarded obscene video of the complainant to her. There are discrepancies in the recovery of cell phone of the applicant. It is submitted that the relationship was consensual. FIR was lodged belatedly. Learned APP submitted that the victim was threatened repeatedly and under the threats the accused had physical relationship with her. There is evidence of applicant having forwarded nude video of the complainant and Facebook messages to her friends.

4 On perusal of FIR, it is apparent that the complainant and the applicant were acquainted with each other since 2015. On several occasion, there were physical relationship between them. Apparently, the relationship is consensual in nature. FIR was

lodged on 2nd May, 2018. They had physical relationship from 2016. Punishments for the offences under IT Act is three years and five years, respectively. Applicant is in custody from the date of arrest. Investigation is completed and charge-sheet is filed. Bail can be granted on certain terms and conditions.

5 Hence, I pass the following order:

:: O R D E R ::

- (i) Criminal Bail Application No.2794 of 2018, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.248 of 2018, registered with Powai Police Station, 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 shall attend Powai Police Station, Mumbai, once in a month 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 evidence and shall not contact the complainant till the

conclusion of trial;

(v) For breach of the conditions, the prosecution will be at liberty to prefer an application for cancellation of bail;

(vi) Applicant is permitted to furnish cash security in the sum of Rs.25,000/-, in lieu of surety, for a period of six weeks from the date of release;

(vii) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)