

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3332 OF 2019

Shabbir Yunus Shaikh

Applicant

versus

The State of Maharashtra

Respondent

Mr.Piyush Toshnival i/by Harshal S. Patil for applicant.

Mr.S.S.Pednekar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 18th December 2019

PC :

1. The applicant is arrested in CR No.15 of 2019 registered with Yerwada Police Station, Pune for offences punishable under Sections 376(2)(n), 323, 506 of Indian Penal Code and u/s 3 of Maharashtra Prevention and Eradication of Human Sacrifice and Other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013.

2. The FIR was lodged on 5th January 2019. The victim is a major lady and having two children. In August-2015 she met the applicant who introduced himself to her. He told her that he is devotee of Mahakali. Subsequently the applicant had practiced black magic on the husband of complainant. It is alleged that thereafter in the year 2016, 2017 and 2018 the applicant had physical relationship with the victim. The applicant was arrested and after completion of investigation charge sheet is filed.

3. The advocate for applicant submitted that there is delay of about three years in lodging the complaint. The version of

complainant is false which is apparent because on 8th October 2018 the complainant had lodged a NC complaint with Yerwada Police Station wherein there is no reference to any practice of black magic or sexual assault. The victim is major lady and it is difficult to accept that she was sexually assaulted by use of black magic.

4. Learned APP stated that at the time of arrest of applicant, house search was taken and some articles which are used while using black magic, like Lemon etc were recovered from his house.

5. The investigation is completed and charge sheet is filed. In the NC complaint dated 8th October 2018 it is stated that the complainant and the accused had business of soft toys and on account of losses the business was closed. The applicant had blamed her for the losses and threatened her by stating that he will not pay any amount to her and that she would be killed. The statement of complainant was also recorded apart from the said complaint which has been annexed to this application. The alleged incident about sexual assault was prior to 8th October 2018. From the tenor of the NC complaint it appears that there was a dispute with regards to loss in business and payment of money. Apart from that, the applicant and complainant were acquainted with each other since 2015. The alleged sexual assaults were committed in 2016, 2017 and 2018. The FIR is lodged in 2019.

6. Considering the aforesaid circumstances bail can be granted to the applicant on certain conditions. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.3332 of 2019 is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.15 of 2019 registered with Yerwada Police Station, Pune, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report Yerwada Police Station, Pune once in a month on every first Saturday between 10 am and 1 pm till further orders.

(PRAKASH D. NAIK, J.)

MST