

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

**CRIMINAL BAIL APPLICATION NO.3090 OF 2019**

Vishal Vijay Bhosle

....Applicant

V/s.

The State of Maharashtra

....Respondent

**WITH  
INTERIM APPLICATION NO.01 OF 2019  
IN**

**CRIMINAL BAIL APPLICATION NO.3090 OF 2019**

Sonali Rajendra Chavan

....Intervenor

**IN THE MATTER BETWEEN**

Vishal Vijay Bhosle

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Kedar J. Patil, for the Applicant.

Ms. Pallavi N. Dabolkar, APP for the Respondent- State.

Mr. Kalpesh Patil, for the Intervenor.

**CORAM : PRAKASH D. NAIK, J.**

**DATE : 31<sup>st</sup> January, 2020**

**P.C.:**

1. The applicant is arrested on 30<sup>th</sup> September 2019 in connection with C.R.No.367 of 2019, registered with Sangli City Police Station, for offences punishable under Sections 376 (2) (e), 506 of the Indian Penal Code ('IPC' for short) Subsequently Section 67(a) of Information Technology Act was added.

2. The First Information report is lodged by the victim girl aged about 23 year on 17<sup>th</sup> August 2019. It is alleged that the complainant was preparing for recruitment in police department. In December 2018, the applicant who is related to the complainant had

visited her house to drop her parents and sister and got introduced with him. The applicant was staying on rent near Willingdon College and preparing for recruitment in army. He was visiting complainant's house. Both of them used to talk to each other. In March 2019, the applicant visited the house of the complainant at about 07:00 p.m. She was alone at home. She went to the kitchen. The applicant closed the door. He had forcible intercourse with the complainant and left the house. She did not inform the incident to her parents. Thereafter, the applicant had physical relationship with the complainant under coercion on several occasions. He had clicked the photographs and recorded video about their physical relationship. Thereafter, the applicant kept on threatening the complainant that, he will send the video and photographs to her relatives and had repeated physical relationship with her. On 11<sup>th</sup> August 2019, the applicant sent photographs of the applicant with complainant to her cousin brother Harshavardhan Chavan on his mobile phone. The complainant's cousin Harshavardhan showed the said photograph to her parents. Hence, after discussion decision was taken to lodge the complaint therefore, FIR was lodged on 17<sup>th</sup> August 2019.

3. The investigation proceeded. The statements of witnesses were recorded. On completing investigation, charge sheet was filed.

4. Learned Advocate for the applicant submitted that, the applicant is in custody from the date of arrest. Investigation is completed and the charge sheet is filed. The relationship between the applicant and complainant was of consensual nature. The victim is major girl. There is delay in lodging the First Information Report. There are no criminal antecedents against the applicant. Assuming the allegation with regards to forwarding video and the photographs to be true the prosecution as invoked Section 67 (A) of the Information Technology Act which is punishable with maximum imprisonment which may extend upto five years. The applicant relied upon photographs to show that the victim and applicant were closely acquainted with each other and they were in relationship. The applicant is looking for career in army. Further detention of the applicant is not necessary.

5. Learned APP submitted that apart from having forcible sexual intercourse with the victim the applicant is involved in forwarding obscene photographs and video of the victim to her relatives. The applicant had formed whatsapp group by adding close relatives of the victim and forwarded objectionable photographs to them. It is further submitted that the C.A report with regards to the Forensic Science Laboratory Report regarding to the contents of the cell

phone is still awaited. It is submitted that for want of password, the report could not be given. It is further submitted that Cyber Police Station, Sangli had conducted an inquiry and submitted report dated 13<sup>th</sup> December 2019 with regards to facebook account of the applicant and it was revealed that phone No.9284273989 and 9175731645 were used for opening facebook account. Information was also received from youtube which shows that the youtube registered email was issued on phone No.9284273989. Thus, on the basis of information received from facebook, youtube and google company, mobile No.9284273989 and 9175731645 were used. The said phone numbers stand in the name of the applicant. It is further submitted that the statements of the witnesses recorded. During investigation it is disclosed that, they had received objectionable photographs which were forwarded by the applicant.

6. Learned counsel for the intervenor filed affidavit of father of the victim opposing the application for bail. Learned counsel adopted the arguments of learned APP. It is submitted that, the accused had forcibly taken obscene pictures of the victim and blackmailed her by using photographs and established sexual relationship with her. After registration of the First Information Report, the applicant created whatsapp group, in which the father of the victim was added along with other relatives and friends. The obscene photographs

were shared on the group. Mobile phone of the applicant was recovered from which whatsapp group was created. Forensic report is still awaited. The investigating agency also recovered phone of Yashwant Chavan. Forensic report in that regard is also awaited hence, the application for bail be deferred till the receipt of report. The applicant was arrested after the date of registration of FIR. He has intimidated the witnesses.

7. I have perused the First Information Report. The incident of sexual assault had allegedly occurred in March 2019, when the complainant was alone in the house. The victim did not inform about incident to her parents on account of threats issued by the applicant. According to the complainant thereafter, repeatedly the accused had subjected her to sexual assault at her resistance when her parents were not at home by threatening her. At that time, accused had recorded the video and clicked photographs. The victim did not lodge any complaint. The accused then kept on threatening her that he would make video and photographs viral and established physical relationship with her. On 11<sup>th</sup> August 2019, the applicant accused forwarded their photograph to her cousin on his cell phone. The photographs were shown to her parents by cousin. Thereafter, the FIR was lodged. The applicant has relied upon

photographs between the applicant and the victim showing that they were in company on several occasions and that they had visited several places.

8. The statement of the complainant / victim was again recorded on 03<sup>rd</sup> October 2019. Prior to that, the applicant was arrested on 30<sup>th</sup> September 2019. In that statement she has stated that, since last one year she was acquainted with the applicant. She was preparing for police recruitment. The applicant was working as delivery boy. He was using sim card of Jio company bearing No. 9284273989. The applicant had visited the house of the complainant in 2019, and told her father that, the Zomato App cannot be seen in his mobile phone, and requested that for few days his mobile with sim card may be given to him. On trust, the father of the complainant gave his Lenovo mobile to the applicant. The complainant gave her sim card of Airtel company bearing No.7709541487 to the applicant. The cell phone of the complainant's father and his sim card were in possession of the applicant. In the cell phone of the complainant the contact numbers of her relatives were available. The complainant and her parents had visited the house of her aunt on account of flood. On 11<sup>th</sup> May 2019, the applicant forwarded the photograph of the complainant

with him from his cell phone No.9284273989 to the complainant's cousin Harshvardhan on his cell phone. It is not alleged that the said photographs were obscene. Harshvardhan showed the photographs to her parents. They inquired with the complainant, she told him that the applicant had threatened her that, her obscene photographs and video would be shown to all and hence, she did not disclose about same to them. Since her family members took her into confidence, she lodged the complaint on 17<sup>th</sup> August 2019. After lodging complaint, the applicant had taken the mobile numbers of her relatives from the sim card of the complainant and by using mobile phone and sim card of her father formed whatsapp group. In the said whatsapp group he also included mobile number of her father. He posted obscene photographs and video on the group. He also forwarded the obscene video and photographs on the cell phone of the relatives Yashwant Chavan and Kavita Shinde. He also forwarded obscene video photographs on facebook and youtube.

9. The Japti Panchnama refers to recovery of Lenovo cell phone, sim card of Airtel company, sim card of BSNL company and Apple-I mobile phone. The victim was medically examined. The statement of the victim was recorded under Section 164 of Cr.P.C on

23<sup>rd</sup> August 2019. In the said statement she has stated that, the accused used to took her out and click her photographs. The statement of father of the victim was recorded on 03<sup>rd</sup> October 2019. In the said statement it is stated that, he had given his cell phone and sim card to the accused. The complainant had also given her sim card to accused. Accused has used his mobile and sent objectionable photographs and video on the whatsapp of his cell phone No.9822504811. He had deleted the said photographs. Thereafter, the accused formed whatsapp group on his phone and added relatives and posted objectionable photographs and video. This statement is contrary to the statement of the complainant. It is pertinent to note that according to complainant the cell phone of her father with the sim card continued to remain with the applicant. It is relevant to note that the father of the complainant had received the photographs on his cellphone which was allegedly in possession of the applicant. It is pertinent to note that, in his previous statement he has not mentioned the number of his cell phone. According to the complainant, accused has used the cell phone with sim card of his father for forwarding the objectionable photographs and video. During the course of investigation, statement of Yashwant Chavan was recorded. He has stated that the accused had forwarded the photographs from his cell phone No.9284273989. Photographs and

video were deleted by him from the group. The statement of Harshvardhan was also recorded. He has referred to the photographs of the applicant and the complainant being together which are not objectionable was forwarded to him. In the supplementary statement, he has stated that the applicant had forwarded the photographs and video from his cell phone No. 9284273989 which was deleted by him after finding it objectionable.

10. Learned APP submitted that, the C.A report is awaited and contents can not be viewed for want of password. Password is not collected from the applicant. It is submitted that the applicant is in custody from 30<sup>th</sup> September 2019. On perusal of the cyber report, it can be seen that the report indicates that URL of facebook account opened by the applicant was obtained on 26<sup>th</sup> September 2019 and sent to facebook company on email. However, photographs and video were not received from facebook company. Similarly, it is also stated that URL of youtube account opened by the applicant was forwarded to youtube on 12<sup>th</sup> September 2019 and 25<sup>th</sup> September 2019 through email however, photographs and video from the youtube were not received. The report only indicates that, the information received from face book, youtube, and google company indicates that, cell phone Nos. 9284273989 and 9175731645 was utilized. The fact remains that, the alleged

photographs and video were not received from either youtube or facebook.

11. In these circumstances, the applicant cannot be detained in custody for indefinite period. The charge sheet is already filed hence, on certain terms and conditions bail can be granted to the applicant.

**ORDER**

- (i) Criminal Bail Application No.3090 of 2019 is allowed and disposed of;
- (ii) Interim Application No. 1 of 2019 is disposed of;
- (iii) The applicant is directed to be released on bail in connection with CR No.367 of 2019 registered with Sangli City Police Station, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iv) The applicant shall stay out of the jurisdiction of Sangli City Police Station till conclusion of trial;
- (v) The applicant shall not approach the victim or any of the witnesses and shall not tamper with evidence;

**( PRAKASH D. NAIK, J.)**

