IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1611 OF 2019

Shaikh Imran Shaikh Nazir @
Imran 6 Ungal ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Vikas Shivarkar i/b. Mr. M. N. Sandhyanshiv, Advocate for the Applicant.
Mr. A. R. Kapadnis, APP for the Respondent – State.
Mr. Suraj Aage, PSI, Ramzanpura Police Station, Malegaon.

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CORAM : PRAKASH D. NAIK, J.
DATE : 21st DECEMBER, 2020.

PC :

1. This is an application for bail in connection with C.R. No. 63 of 2018 registered with Dyane Ramzanpura Police Station, Malegaon, Nashik for offences punishable under Sections 386, 353(a), 323, 452 r/w. 34 of Indian Penal Code, 1860 ("IPC" for short). The First Information Report ("FIR" for short) was registered on 14th November, 2018. Applicant was arrested on 14th November, 2018.

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2. The prosecution case is that, the complainant is the cousin of victim. On 9th November, 2018 he visited victim's house. Victim is wife of Imran. At that time applicant and two other persons

visited victim's house. They assaulted complainant. They told him that he is having affair with victim. He should give amount of Rs.15,000/- and he should collect Rs.10,000/- from victim. They would not disclose his affair to anyone. They also assaulted victim's husband. Complainant was threatened. Complainant and Imran were pushed out of house. Victim told them that one of the accused had outraged her modesty by touching her inappropriately. On the next day the accused again demanded money. Statement of the victim was recorded on 15th November, 2018. She stated that the accused had outraged her modesty by touching her inappropriately. Statement of her husband Imran was recorded on 15th November, 2018. He referred to same incident. Statement of victim was again recorded on 17th November, 2018. She stated that on 9th November, 2018 after pushing her husband and complainant out of house the accused committed forceful sexual intercourse with her. Hence, Section 376(d) of IPC was added.

3. Learned counsel for the applicant submitted that the applicant is falsely implicated in this case. Initially, the offences were registered under Sections 386 and 354 of IPC. Subsequently, offence under Section 376(d) was added on the basis of statement of the victim. There was no reason for the complainant and other witnesses to attribute the allegations of sexual assault in the supplementary

statement.

4. Learned APP submitted that at this stage the version of the complainant is required to be looked into. One more case registered against the applicant for offence under Section 354 of IPC. He is habitual offender.

5. On perusal of the FIR dated 14th November, 2018 it is apparent that the allegations restrict to offences under Sections 354(A), 386, 323, 452, and 34 of IPC. The statement of the victim and husband of the victim was recorded on the same day, which similar to FIR. The statement of victim dated 17th November, 2018 is improvement. She alleged that accused had sexually assaulted her. Similarly, her husband and complainant also improved their version in supplementary statements. The applicant is in custody from 14th November, 2018. The supplementary statements completely changes version of victim and other witnesses.

6. Hence, I pass the following order.

ORDER

i) Bail Application No. 1611 of 2019, is allowed;

ii) The applicant is directed to be released on bail in connection with C. R. No. I-63 of 2018

registered with Dyane Ramzanpura Police Station, Malegaon, Nashik on furnishing P.R. bond in the sum of Rs. 25,000/-(Twenty Five Thousand) with one or more sureties in the like amount;

iii) Applicant shall not enter within the jurisdiction of Dyane Ramzanpura till conclusion of trial;

iv) Applicant shall furnish the details about place of his residence and mobile phone number to investigating officer;

v) Applicant shall regularly attend the Trial Court on the date of hearing of the case unless exempted by the Court.

vi) Bail Application stands disposed of accordingly.

vii) This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)