

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

CRIMINAL BAIL APPLICATION NO. 2579 OF 2019

Ashish Ramesh Mehar ... Applicant

Versus

The State of Maharashtra ... Respondent

...

Mr. Sachin R. Pawar, Advocate for the Applicant.
Mrs. P.P. Shinde, APP for Respondent-State.

...

CORAM : SANDEEP. K. SHINDE, J.
DATE : 04th FEBRUARY, 2020.

P.C.

Heard.

1. It is an application under Section 439 of Code of Criminal Procedure, 1973 ("Cr.P.C." for short).

2. Applicant is seeking enlargement on bail in Crime No. I - 63 of 2019 registered with Kolsewadi Police Station for the alleged offences punishable under Sections 376, 354, 354-A, 354-B, 341, 323, 500,

504, 506 of the Indian Penal Code, 1860 ("IPC" for short).

3. Victim is 25 years old married woman; whereas the applicant is 30 years old bachelor. Victim alleged that on 28.01.2019 while she was going to leave her children to school, the applicant allegedly outraged her modesty as she narrated the incident but subsequently on 06.02.2019, the subject offence came to be registered and applicant was arrested soon thereafter.

4. The investigation is over and the final report has been filed.

5. I have perused the final report. It is prosecution's case the victim and her family were living in rental premises of which the applicant's family were the landlord. It is alleged that the applicant was also living in the same building. The victim alleged that during the period 2016-17, the

applicant followed her and was attempting to contact her to foster personal interaction repeatedly despite a clear indication of no interest shown by her. She alleged that the sexual assault by the applicant and further alleged that he had clicked some obscene photos in his mobile which were then used to threaten her.

6. Be that as it may, the mobile recovered from the applicant has been sent for the forensic report the result of which is awaited.

7. Applicant has placed on record one writing dated 16.02.2018 which is a part of charge-sheet in which he had undertaken that he would not indulge into such acts in future. As against this, learned APP has brought to my notice, a complaint dated 26.02.2018 (non cognizable complaint filed by victim against the applicant) and submitted that the applicant had not adhered to his undertaking dated 16.02.2018, and thus it may be kept out of the consideration.

8. Be that as it may, the applicant is in the custody since January, 2019. The victim is a married woman. The investigation is over. The medical evidence prima facie does not corroborate the allegations made by the victim. That even otherwise, the complaint of the victim prima facie does not suggest that the applicant had forced her to maintain physical relation with him against her wish. The trial in this case may not commence and conclude in the near future, however applicant's presence for the trial can be secured by imposing conditions. Hence the following order.

ORDER

(i) The applicant is directed to be released on bail on executing P.R. Bond for the sum of Rs.25,000/- with one or more sureties in the like amount;

(ii) The applicant shall not live in the jurisdiction of the Kolsewadi Police Station Kalyan till the charge is framed;

(iii) The applicant shall report to the Mahatmalphule Police Station, Kalyan twice a month on 2nd and 4th Monday of every month commencing from February 2020 between 11:00 am to 01:00 pm.;

(iv) The applicant shall furnish the particulars of his new residential address as well as permanent address and contact details to the investigating officer within fifteen days from the date of his release on bail;

(v) The applicant shall not establish, directly or indirectly any contact with the victim or other witnesses;

(vi) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

9. The application is allowed in the aforesaid terms and disposed off.

10. It is made clear that observations made hereinabove shall be construed as an expression of opinion only for the purpose of granting bail and the same shall not in any way influence the trial in other proceedings.

(*SANDEEP. K. SHINDE, J.*)_