

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1807 OF 2021**

Arunsingh Fateesingh Jadhav	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Satyam Nimbalkar, for the Applicant.

Ms. P.P. Shinde, APP, for the State-Respondent.

API Prashant T. Mahule, P.S. Sangola, District-Solapur present.

CORAM : V. G. BISHT, J.

RESERVED ON : 24th November, 2021.

PRONOUNCED ON : 7th December, 2021.

PC:-

. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in C.R. No. 952 of 2020 registered with Sangola Police Station, District- Solapur for the offences punishable under Sections 376D, 452, 394, 420, 363, 344, 324, 323, 504, 506, 201 r/w 34 of the Indian Penal Code.

2 It is the case of prosecution that the informant is a divorcee and was looking a match for her. The applicant represented the informant as

a divorced man and further showed his willingness to marry her. Thereafter both of them exchanged their mobile numbers and ultimately decided to marry. The informant on her part agreed to give Rs.1,50,000/- and 5 tola gold to the applicant and both of them decided to perform Court marriage. However, later on the informant learnt that the applicant has many vices and refused to marry.

3 The prosecution alleges that on 19/01/2020 the applicant visited the informant's house and forcibly ravished her and also beat her by means of slipper and leather belt. He also threatened the informant with dire consequences from his cell phone. It is further alleged that on 15/03/2020 the applicant with the help of accused Ruju Gora Khan, Prashant Suresh Chandanshiv and Raju Dinkar Puri-Gosavi abducted the informant and wrongfully confined her at his farm house for 20 days. When the informant refused to marry the applicant allegedly beat her by Kolhapuri slippers and leather belt and also sexually assaulted. The informant accordingly lodged the report.

4 Mr. Nimbalkar, learned Counsel for the applicant, submits that there is delay of more than six months in lodging the FIR which is not at all explained. Moreover, the informant of her own free will entered into

a sexual relationship and in order to substantiate learned Counsel invited my attention to the statements of prosecution witnesses, namely, Dr. Rahul Magar, Dr. Sagar Pawar and Yuvraj Shinde and Namrata Shinde. Therefore, the case of prosecution that the accused subjected the informant to physical harassment and sexually abused are clearly against the material on record. In view of this, the applicant deserves to be enlarged on bail, argued learned Counsel.

5 Ms. Shinde, learned APP, on the other hand, opposed the submission by contending that the FIR in itself is very much clear about the sexual abuse and physical assault perpetrated by applicant on the informant. There are antecedents as well. Thus, for all these reasons, the application does not deserve consideration.

6 Perused the investigation papers. From the FIR it appears that earlier the informant and applicant had agreed to marry each other but when the informant came to know about the vices of the applicant she decided not to marry him. Before that she had already parted with cash amount and gold ornaments. She also alleges that she was confined for 20 days and was abused sexually but there are certain statements of the witnesses which put the conduct of the informant in a bad light. Before

that it may be noted that while she was confined she was constantly beaten by the applicant with the help of slipper and belt and was even taken to the doctor by one of the aid of the applicant.

7 There are two statements of prosecution witnesses, who are doctors by profession. They are Dr.Rahul Magar and Sagar Pawar. The statement of Dr. Rahul Laxman Magar shows that somewhere in the month of March 2020 in the afternoon, a woman by name Sushama Arunsingh Jadhav i.e. informant had come for treatment and when he enquired she told that she was wife of Arunsingh Jadhav i.e. the applicant. On being further asked, she told that she was beaten by her husband after consuming liquor. His statement further shows that after some days said Sushma Gaikwad was again brought by applicant and he found the marks of beating on her person. The informant had also complained that she was beaten by the applicant.

8 First of all it may be seen that when for the first time the informant visited this witness for treatment she had ample opportunity to reveal her ordeal as she was allegedly under confinement at the hands of applicant. But she kept mum and rather introduced herself as a wife of applicant. Even on second occasion also she did not complain against

the applicant.

9 Next statement is of Dr.Sagar Krishna Pawar. His statement shows that somewhere in the month of March 2020 accused Raju Khan had brought a woman for treatment and he had introduced that the woman is wife of applicant. After seeing the marks of beating he had advised them to go to Government Hospital. Here also the applicant had an opportunity to tell everything to this witness but she did not reveal anything.

10 The another witness is Balasaheb Rajaram Chavan. From his statement it appears that he was present at the time of final talk of marriage on 03/01/2020. Thereafter, in the month of January itself after some time the applicant and the informant had been to his house and apprised him that both of them had married and therefore, he accordingly gave them wedding gift and offered them meal. Thus, the statement of this witness shows that the informant and the applicant had married each other whereas the informant is trying to make out a case that she had refused to marry the applicant.

11 Then there are statements of witnesses Yuvraj Vasant Shinde and

Namrata Yuvraj Shinde. Both are husband and wife. Their statements show that the applicant had come with a woman in their house who was none other than the informant. She was wearing *mangalsutra* and *jodavi* and the applicant introduced her as his wife. On the same day, in the evening they gave wedding gift and dinner to applicant and informant. It is their further statement that the agricultural land of applicant is abutting to their land and therefore, the informant and the applicant regularly used to visit the field. One day the informant visited their house and told them that the applicant always beat her after consuming liquor and even showed them weal mark. From the statements of these two witnesses it is again clear that not only the informant and the applicant had married each other but they also used to visit their agricultural land abutting to the land of these witnesses. Even the informant used to complain them about beatings given by the applicant after consuming alcohol.

12 Thus, having regard to the material on record, in my considered opinion, the applicant has made out a case for bail. Even though there are some antecedents against the applicant but keeping in mind the material on record pertaining to the present crime *qua* applicant, that will not come in his way as he has made out a case for bail on merits.

Hence, the following order.

ORDER

- (i) Applicant- Arunsingh Fateesingh Jadhav shall be released on bail in C.R. No. 952 of 2020 registered with Sangola Police Station, District-Solapur on his executing P .R. bond in the sum of Rs. 25,000/- with one or more sureties in like amount.
- (ii) The applicant shall not tamper with the prosecution evidence and shall attend the trial regularly.
- (iii) The observations made herein-above are prima-facie in its nature for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.
- (iv) Bail before the trial Court.
- (v) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V. G. BISHT, J.)