

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

CRIMINAL BAIL APPLICATION NO. 1632 OF 2020

Nitin Dilip Laykar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Saurabh V. Patil a/w Mr. Aniket Nikam for the Applicant

Mr. H. J. Dedhia, A.P.P for the Respondent–State

CORAM : REVATI MOHITE DERE, J.

WEDNESDAY, 22nd SEPTEMBER 2021

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 416/2020 registered with the Ichalkaranji Police Station, Kolhapur, for the alleged offences punishable under Sections 376, 504 r/w 34 of the Indian Penal Code and under Sections 4 and 25 of the Arms Act.

3 Learned counsel for the applicant has tendered a coloured xerox copy of the documents on which he proposes to rely in support of his submission, i.e. whats-app chat/messages exchanged between the applicant and the prosecutrix. The same is taken on record.

4 Learned counsel for the applicant submits that the allegations as against the applicant are false and baseless, inasmuch as, the relations between the applicant and the prosecutrix were consensual. He submits that the applicant was a married lady aged 32 years, with a child. He submits that whats-app chats will reveal that the relations were consensual in nature. He submits that investigation is complete and charge-sheet is filed and hence, further detention of the applicant is not warranted.

5 Learned A.P.P opposes the application.

6 Perused the papers. The prosecutrix (complainant) was working as an Insurance Manager with an Insurance Company in Kolhapur. It appears that the father of the prosecutrix and the applicant were friends and through their friendship, the prosecutrix came to know the applicant. It is the case of the prosecutrix that as her husband was unemployed during

the period January 2019, the applicant appointed him as a driver, after promising him a handsome salary. The prosecutrix has alleged that since March 2019, the applicant would regularly visit her house and on one occasion in March 2019, when her husband was not in the house, had forcible sexual relations with her and threatened her not to disclose the same to anyone or else, he would kill her husband and daughter. She has stated that thereafter again, the applicant had physical relations with her on three occasions and that the same continued till June 2019. According to the prosecutrix, although her husband had worked with the applicant, as a driver for 7-8 months, the applicant never paid him salary and whenever they asked for salary, the applicant would threaten them. She has stated that in July 2019, she along with her family shifted to another rented premises. According to the prosecutrix, the applicant would call her often and threaten her and would tell her to inform him whenever her husband was not at home or else, he would kill her husband and daughter. Thus, the prosecutrix has alleged that the applicant from November to December 2019, had forcible physical relations with her whenever her husband was not at home. She has further alleged that on 13th December 2019, the applicant called her and threatened her to transfer a plot of land which was on her husband's name, in favour of the applicant. According to the prosecutrix, the threats continued even thereafter, pursuant to which, she

lodged a complaint/FIR. According to the learned counsel for the applicant, the applicant is a well reputed social worker engaged in several social activities and during the Covid lock-down period, helped several poor and needy people of the Society and was even honoured with “Our Neighbour Heroes” award. According to the learned counsel, the prosecutrix fell in love with him as her husband would mistreat her and assault and abuse her and as such, the relations between the applicant and the prosecutrix, were consensual.

7 A perusal of the whats-app chats relied upon by the learned counsel for the applicant *prima facie* shows the relationship between the parties. It also appears that the communications were also from the prosecutrix, expressing her love for the applicant. It also appears that the allegation of the prosecutrix that the applicant was threatening that her husband transfers a property situated at Sangli in the applicant’s name, *prima facie*, appears baseless, inasmuch as, the said property was already sold/transferred in the year 2018, to a third party. The said document is at page 341 of the application. Investigation is complete and charge-sheet is filed. The applicant is in custody since 7th October 2020 and as such, his further detention is not warranted.

8 Accordingly, the application is allowed and the applicant is enlarged on bail, on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 20,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 12:00 noon, until framing of charge;
- (iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (iv) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;
- (v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

9 The application is accordingly disposed of.

10 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

11 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.