

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

BAIL APPLICATION NO. 950 OF 2021

Vivekanand Brahmanand Sharma ... Applicant

Versus

The State of Maharashtra ... Respondent

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Adv. T. R. Patel, Advocate for the Applicant.

Ms. Anamika Malhotra, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 30th MARCH, 2021

PER COURT:

1. The applicant is arrested in connection with C.R. No. 117 of 2020 registered with Gorai Police Station, Mumbai for offences under Sections 376(2)(n), 417, 323, 504, 506, 507 of Indian Penal Code (for short “IPC”). The First Information Report (for short ‘FIR’) was lodged on 16th December, 2020.

2. The case of the complainant is that during the period from 2015 to 2020, the applicant induced the complainant to establish physical relationship by giving promise of marriage. He had clicked her nude photographs and recorded video on his cell phone. Thereafter, he was threatening her that the photographs/video would be made viral and she would be defamed by him. In pursuant to

registration of FIR, the applicant was arrested.

3. On perusal of the FIR it can be seen that the complainant was acquainted with the applicant for a long time. There was physical relationship between them. It is alleged that under the pretext of marriage she was subjected to physical relationship. The tenor of the FIR indicate that the relationship was of consensual nature.

4. Learned counsel for the applicant submitted the complainant had lodged N.C. complaints against the applicant which do not allege physical relationship between them. The applicant is in custody for substantial period of time. Photographs and videos were not recovered during investigation.

5. Learned APP submitted that the complainant was subjected to threat, abuse and under the promise of marriage the applicant had established physical relationship. N.C. complaints were lodged. The FIR mentions that after the video/photographs were recorded, the accused had deleted the same.

6. As stated above from the FIR it is apparent that the relationship was of consensual nature. The complainant is major lady aged about 29 years. Investigation is completed and the charge-sheet is filed. Further custody of the applicant is not necessary.

ORDER

- (i) Criminal Bail Application No. 950 of 2021 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No. 117 of 2020 registered with Gorai Police Station, Mumbai, on executing P.R. Bond in the sum of Rs.25,000/- with one or more local sureties in the like amount;
- (iii) The applicant shall report concerned Police Station once in three month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- (iv) The applicant shall not tamper with the evidence.
- (v) The applicant shall not approach the complainant or shall not threaten the complainant.
- (vi) The applicant is permitted to furnish provisional cash bail in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety.
- (vii) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)