

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

CRIMINAL BAIL APPLICATION NO.1018 OF 2021

Chaitanya Kumar Krishnanand Johari

@ Chaitanya Kumar Soni

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Subhash Jha @ Manoj Chauhan a/w Mr. Tanaji Malusare i/by
Law Global Advocates, for the Applicant.

Mr. A. R. Kapadnis, APP for the Respondent – State.

Mr. Prakash Sanap, PSI, Trombay Police Station – present.

CORAM : NITIN W. SAMBRE, J.

DATE : 17th NOVEMBER, 2021

PC.

1. On 22nd March, 2019, applicant came to be arrested in Crime No.80 of 2019 registered with Trombay Police Station for the offence punishable under Sections 376, 354A, 384, 506 r/w 34 of IPC.

2. The prosecution case against the applicant is that the complainant and her husband were assured relief by following religious black magic and other treatment for her son who was suffering from Cancer and under the said pretext extorted amount and committed offence of rape.

3. Mr. Subhash Jha, learned counsel for the applicant while

trying to make out case for grant of bail would urge that the allegations for an offence under Section 376 are not substantiated by any other evidence. According to him, the long standing relation between the applicant and complainant, the death of the son of the complainant on 18th November, 2017 still the complainant continued relationship with the applicant speaks about the voluntarily relationship of the complainant.

4. Apart from above, he would urge that the applicant has suffered incarceration for last more than two and half years.

5. Learned APP would urge that there are specific allegations which are covered under the provisions of Section 376 of IPC. He further claimed that the statement of the husband of the complainant substantiate the claim made and the prosecution story. That being so, the application is liable to be rejected.

6. Considered submissions.

7. It appears that the incident in question claimed to have occurred lastly on 2nd October, 2018 whereas the complaint for the same was lodged on 15th March, 2019. There is no explanation for such delayed lodging of FIR.

8. Apart from above, the fact remains that there are no criminal antecedents and the allegations of offence under Section

376 of the IPC are not substantiated by any material evidence. At the most, even if the statement of the complainant is accepted at this stage, the offence could be made punishable under section 354 of IPC.

9. Having regard to the incarceration suffered by the applicant for last more than two and half years and absence of any criminal antecedents, case for grant of bail is made out.

10. Applicant is directed to be released on bail in Crime No.80 of 2019 registered with Trombay Police Station for the offence punishable under Sections 376, 354A, 384, 506 r/w 34 of IPC on furnishing P. R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount. Applicant shall neither influence the witnesses in any manner nor tamper with the evidence. Applicant shall not establishment any contact with the family members of the complainant. Applicant shall attend trial regularly, failing which the Trial Court shall be at liberty to take out proceedings for cancellation of bail.

11. As such, application stands disposed of.

[NITIN W. SAMBRE, J.]