

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1267 OF 2020

Dnyaneshwar Ranganath Ushir .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr.Aniket Nikam a/w Mr.Piyush Toshnival i/b Mr.Vivek Arote
for the Applicant.

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

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CORAM: BHARATI DANGRE, J.
DATED : 17th JULY, 2021

P.C:-

1. The applicant is charge-sheeted in C.R.No.I-144 of 2020 registered with Yeola City Police Station, Nashik for the offences punishable under Sections 376(2)(n), 354(D)(2), 504, 506 and 500 of the IPC alongwith Section 67(A) of the Information Technology Act. He seeks is release on bail in connection with the said C.R..

2. The complainant, a young girl aged 22 years, approached Yeola City Police Station on 13/05/2020, levelling allegations against the present applicant. The prosecutrix narrated that she was persuading her education and was commuting by bus to her college from her residence. During this journey, she got acquainted with the applicant, aged 24 years, who was also a

student at the relevant time, but subsequently secured an employment. The applicant and the prosecutrix exchanged their mobile numbers and were conversing with each other on the phone. It is alleged that the applicant proposed her, but she did not show any inclination and expressed to him that she would prefer their relationship to be of mere friendship.

3. On one day in June or July 2019, the prosecutrix was invited by the applicant to a restaurant where she consumed some sweet drink and started feeling dizzy. The allegation is that the applicant carried her to a lodge at Kopargaon Road, Yeola and established physical relationship with her. She was subsequently dropped at bus stop from where she proceeded to her home. She did not disclose the said incident to anyone. Thereafter, by showing her the photographs clicked by him in the lodge as well as the video, the allegation is, the applicant used to blackmail her and coerce her to accompany him to the lodge on 7 to 8 occasions from June, 2019 to February, 2020, where he established physical contact. This was under the pretext of making the photographs viral.

The prosecutrix also allege that the photographs taken by the applicant were uploaded by him on Google Cloud and since he was aware of her password and had changed the password, it was not possible for her to access or delete them. The prosecutrix also allege that whenever there used to be the proposals for her marriage, the applicant used to intervene and on four occasions, the proposals were fizzled out. Being fed up with the attitude of the applicant, she lodged the complaint on 13/05/2020.

4. During the course of investigation, the investigating agency has recovered the mobile phone of the applicant and it is informed by the learned APP that the mobile has been forwarded for forensic analyses. The prosecution has not compiled any photographs, which were retrieved from the mobile phone and which could have been described to be so objectionable so that the prosecutrix had to fear that the applicant would disrepute her by making the photographs viral. Not a single such photograph has surfaced on record.

5. During the course of investigation, the statement of the Manager of the lodge where the applicant is alleged to have taken the prosecutrix, is recorded. The said person, by referring to the Register maintained during the course of his business, admits that the couple had visited the lodge on 7 to 8 occasions. He states that while allotting a room in the lodge, the photostat copies of the Aadhar card of the applicant and college I Card of the prosecutrix were obtained by him and entry to that effect has been made in the Register.

6. The statement of one person is compiled in the charge-sheet, who had received a proposal for marriage with the prosecutrix. He states that the applicant had met him and disclosed that he is in love with the prosecutrix and he had also shown one photograph in his mobile and told him not to marry her. Thereafter, he refused the alliance on the pretext that they are not compatible astrologically.

The statement of one more person on the similar lines is compiled in the charge-sheet.

7. On perusal of the material contained in the charge-sheet, *prima facie*, it appears that the relationship between the applicant and the prosecutrix was consensual since the lodge owner corroborates the prosecution case that the couple had visited the lodge on 7 to 8 occasions. If the prosecutrix was constrained to continue the said relationship, on account of some photographs, the photographs are necessarily have to be objectionable which could have put her under the fear of harm to her reputation, but the charge-sheet is silent about the nature of the photographs. The delay in lodging the complaint by the prosecutrix assumes significance, indicating that the relationship was continued by her for certain period of time, but later on, for some reason it did not work out. The mobile phone of the applicant is already seized and the learned APP makes a statement that there are no photographs of the couple available on the Google.

Further, it is informed by the learned counsel for the applicant that the prosecutrix has also got married to some other person. The release of the applicant on bail, in the backdrop of the aforesaid circumstances, will not in any way affect the prosecution case and since the investigation is complete and the charge-sheet is filed, incarceration of the applicant, pending his trial, is unwarranted. Subject to the stipulation that the applicant shall not establish any contact with the prosecutrix in any manner, he is entitled to be released on bail, on following conditions.

: ORDER :

- (a) Application is allowed.
- (b) Applicant - Dnyaneshwar Ranganath Ushir shall be released on bail in C.R.No.I-144 of 2020 registered with Yeola City Police Station, Nashik, on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with the prosecution evidence.
- (d) The applicant shall not establish the contact with the prosecutrix by any mode.
- (e) The applicant shall attend the trial on regular basis, once it is commenced.

SMT. BHARATI DANGRE, J