

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

CRIMINAL BAIL APPLICATION NO.3109 OF 2021

Rushikesh Kishore Jadhav

...Applicant

Versus

The State of Maharashtra

...Respondent

WITH

INTERIM APPLICATION NO. 2479 OF 2021

IN

CRIMINAL BAIL APPLICATION NO.3109 OF 2021

Divya Chandrakant Vayedekar

...Intervener

IN THE MATTER OF :

Rushikesh Kishore Jadhav

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Nikhil P. Mallelwar i/b Mr. Sachin Ramrao Pawar for the Applicant

Mr. A. A. Palkar, A.P.P for the Respondent–State

Mr. Gaurav Parkar for the Intervener for IA/2479/2021

CORAM : REVATI MOHITE DERE, J.

MONDAY, 11th OCTOBER 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. 13/2021 registered with the Roha Police Station, Raigad, for the alleged offences punishable under Sections 376, 376(2)(n), 377, 417, 323, 504, 506 and 507 of the Indian Penal Code.

3 Learned counsel for the applicant submits that the relations between the applicant, aged 24 years and the complainant/prosecutrix, aged 29 years were consensual. He further submits that the complainant/prosecutrix lodged the FIR, as the applicant failed to marry her, despite promising to do so.

4 Learned A.P.P opposes the application.

5 Mr. Parkar, learned counsel for the complainant also opposes the application. He submits that before the FIR was registered, the applicant had agreed to marry the complainant, however, he did not turn up for the marriage. He submits that the applicant threatened the complainant to withdraw the complaint, after the FIR was lodged.

6 Perused the papers. According to the complainant/prosecutrix, she was interested in learning music and singing and therefore, through a

common friend, met the applicant, who was a music teacher. The prosecutrix has alleged that she used to attend the applicant's music classes at his residence and other places. She has stated that there was a love affair between the two and the applicant had disclosed his intention to marry her, despite the age difference between them i.e. the complainant was about 6 years older to the applicant. She has further stated that the applicant disclosed to her about his previous break-up and as such, tried to gain sympathy and established physical relations with her despite her opposition. She has further stated that after a few days, due to the physical relations, she conceived and when she disclosed the same to the applicant, he gave prosecutrix money to terminate the pregnancy. The said medicines were allegedly procured by the applicant's friends. It appears that before the registration of the FIR, the applicant had promised to marry the prosecutrix, however, he did not turn up for the same. Pursuant to which, the FIR was lodged. It appears that though the prosecutrix had lodged an FIR, the police, after investigation, filed a closure report. It appears that the closure report was withdrawn and the investigation was transferred to a Lady Officer, pursuant to which, the aforesaid FIR was lodged.

7 Whether the physical relations were with the consent of the complainant or not or whether they were established after promising to

marry her, is a matter which will be decided by the trial Court at the time of the trial. The applicant aged 24 years is in custody since last 6 months. Investigation is complete and charge-sheet is filed.

8 Considering the aforesaid, further detention of the applicant is not warranted. 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. 15,000/- with one or two sureties in the like amount;

- (ii) 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;

- (iii) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

9 The application is accordingly disposed of in the aforesaid terms.

10 In view of the aforesaid, Interim Application No. 2479/2021 also stands disposed of.

11 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.

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

REVATI MOHITE DERE, J.