

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

**BAIL APPLICATION NO. 1546 OF 2020**

Shri Shubham Manoj Bagde. ... Applicant

V/s.

State of Maharashtra. ... Respondents.

-----

Mr. Vijay Killedar, advocate for applicant.

Mr. K.V. Saste, APP for State.

-----

**CORAM : SMT. SADHANA S. JADHAV**

**DATE : APRIL 26, 2021.**

**(Through Video Conferencing)**

**PC.**

1            Heard the learned Counsel for the applicant and the learned APP for State.

2            This is an application under section 439 of the Code of Criminal Procedure, 1973 seeking enlargement on bail. The applicant herein is arrested on 22/8/2020 in Crime No. 526 of 2020 registered at Wakad Police Station for offence punishable under section 376, 354, 354(A), 354(B), 323, 504, 506 of the Indian Penal Code alongwith Sections 3, 4, 7 and 8 of the Protection of Children from Sexual

Offences Act, 2012. Investigation is completed and charge-sheet is filed.

3           On 9/7/2020 Ms. X lodged a report at the police station alleging therein that on 28/3/2019 present applicant alongwith his parents had approached the parents of the complainant and had proposed marriage with the prosecutrix. The mother of the prosecutrix was of the opinion that since her daughter is pursuing her education, they should get married after two years. The applicant and his parents had agreed to wait for two years. However, the applicant and the prosecutrix continued to meet each other. They used to communicate with each other on the cell phone. On 11/2/2020 she met the present applicant. At that time, he had offered to take her for a drive. He had then taken her to a hotel namely, Sai Palace Lodge at Alandi. That he had taken her into confidence that they were to get married and hence, he had forced himself upon her and ravished her against her will. On 6<sup>th</sup> May, 2020 he had assaulted her on the ground that she had disclosed the said incident to her parents.

4           It is alleged that upon learning about the said incident, her

mother and relatives had been to his house and had proposed to get them married at the earliest and at that juncture, present applicant had refused to get married to the applicant. He had also threatened her and her parents. On the basis of her report, Crime No. 526 of 2020 was registered at Wakad Police Station, Pune, for offence punishable under section 376, 354(A), 354(B), 323, 504, 506 of the Indian Penal Code.

5           The prosecutrix was referred for medical examination on 13/7/2020. That there are no external injuries. The statement of the prosecutrix was recorded by the Doctor and in the said history the complainant had disclosed that she was in contact with the present applicant on social media and Insta-gram and she used to talk to him regularly. Their marriage was settled, but on 11/2/2020, the applicant had taken her to Sai Palace Lodge in Alandi and had forceful penetrative vaginal and anal intercourse. The accused used condom during intercourse and that she had consumed I-pill after intercourse.

6           Learned Counsel for the applicant submits that the applicant was in love with the complainant. He has placed on record the photographs of the complainant with the applicant to substantiate

his contention. According to him, the said incident was consensual and the FIR is lodged after almost 5 months of the incident. It is pertinent to note that there is specific history of consumption of “I-pill” by the complainant soon-after the intercourse. She has not stated in the FIR that the applicant had administered I-pill to her. Therefore, according to the learned Counsel, since the act was consensual, she had carried on “i-pill” which is taken as an emergency contraceptive tablet. .

7           The investigation is completed. The papers of the charge-sheet would show that marriage of the applicant and the complainant was settled and it appears that since there was refusal to marry for unknown reason, the law was set into motion and there are allegations of offence punishable under section 376 of the Indian Penal Code against the applicant. Be that as it may, the applicant has been in custody for more than 9 months. Hence, further incarceration would amount to punitive detention. Hence, the application deserves to be granted bail.

8           Hence, following order is passed.

**ORDER**

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail in Crime No. 526 of 2020 registered at Wakad Police Station on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or more sureties in the like amount.
- (iii) The applicant shall not tamper with the evidence.
- 9 The application is disposed of accordingly.

**(SMT. SADHANA S. JADHAV, J)**