

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

CRIMINAL BAIL APPLICATION NO. 2481 OF 2019

Vishal Sunil Udamle

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Milan Desai i/b Mr. T. R. Patel for the Applicant

Mr. A. R. Patil, A.P.P for the Respondent–State

CORAM : REVATI MOHITE DERE, J.

THURSDAY, 14th JANUARY 2021

P.C. :

1 Heard learned counsel for the applicant and the learned A.P.P
for the State.

2 By this application, the applicant seeks his enlargement on bail
in connection with C.R. No. 472 of 2018 registered with the Borivali Police
Station, Mumbai, for the alleged offences punishable under Sections 354,
506(2), 427 of the Indian Penal Code; under Section 8 of the Protection of
Children from Sexual Offences Act; under Sections 4, 27 of the Indian
Arms Act and under Section 37(1)(A), 135 of the Maharashtra Police Act.

3 Learned counsel for the applicant submitted that the applicant has been falsely implicated in the said case. He submitted that the applicant and the victim girl were in a relationship and that as the relationship was not accepted by the girl's parents, a false case has been registered as against the applicant. He further submitted that the applicant is in custody for more than 2 years and as such be enlarged on bail, having regard to the maximum sentence that can be awarded, in the event, the applicant is convicted for the alleged offence. He further submitted that the applicant is a young boy aged 20 years and keeping him in custody will further expose him to become hardened criminal. He further submitted that with respect to the incident dated 2nd October 2018, there is a discrepancy between the victim girl and her parents on the one hand and the neighbours, on the other. He submitted that none of the independent witnesses have disclosed about the alleged incident of 2nd October 2018.

4 Learned A.P.P opposed the application. He submitted that a perusal of the statement of the victim girl would show that the applicant was stalking her and was threatening her to meet him, after she had severed ties with the applicant. He submitted that the statement of the victim girl is consistent with the statement of her parents. He further submitted that the

applicant has 13 cases registered as against him with different police stations i.e. 10 with the Borivali Police Station; 1 with Dahisar Police Station and 2 with Charkop Police Station. He further submitted that if the applicant is enlarged on bail, the victim girl's life would be endangered.

5 Perused the papers. A perusal of the statement of the victim girl shows that she met the applicant in 2016, when she was about 14½ years old. She has stated that the applicant used to stand near her School and would try to initiate conversation with her on some pretext or the other. She has stated that though they started talking with each other, when her parents learnt about their friendship, they prohibited her from meeting or talking with the applicant and asked her to stay away from him. The victim girl has stated that pursuant thereto, she told the applicant not to meet her nor call her. She has further stated that in 2017, the applicant was arrested in some other case and after his release from jail, he insisted on meeting and talking to her. She has further stated that as she refused to talk with the applicant, the applicant called and threatened her parents on phone, pursuant to which, they gave a complaint to the Borivali Police Station. She has stated that the applicant was threatening her mother that she should permit them to meet. According to the victim girl, in August 2018, the applicant again threatened her mother and threatened to assault her parents

and in September 2018, when she had gone to Gorai, the applicant insisted that she should talk to him. She has further stated that pursuant to the said incident, she informed her mother on phone, pursuant to which, the applicant fled from the spot. She has further stated that the applicant again called her mother and asked her how long can she protect her daughter and threatened and abused her. The victim girl has further stated that on 2nd October 2018 at about 3:00 a.m in the morning, the applicant came outside their house and started shouting loudly and insisted on meeting her. She has further stated that the applicant threw a stone, pursuant to which, the glass pane of the window broke. She has stated that when she and her mother stepped out, they saw that the applicant had a *koyta* like weapon in his hand. She has further stated that the applicant came forward and pulled her towards him and when her mother came to pull her, the applicant threatened her with the *koyta* and told her mother that if she wanted her daughter, she should go back home, lest, he would kill her. She has further stated that her mother stood at the spot on being threatened. She has further stated that when the applicant started shouting, the neighbours came, however, when the applicant threatened to kill them, none of the people came forward and returned home. She has further stated that the applicant thereafter pulled her towards him, kissed her and touched her inappropriately and thereafter, pushed her. The said statement of the victim

girl is corroborated by her parents. As far as the witnesses who were present at the spot, they have spoken about an incident dated 1st November and not 2nd October 2018.

6 Be that as it may, whether the incident took place on 2nd October 2018 or 1st November 2018, is a matter which will be considered at the time of trial. The applicant has 13 cases registered as against him i.e. 10 with the Borivali Police Station; 1 with Dahisar Police Station and 2 with Charkop Police Station. It appears that the said cases were registered when the applicant was juvenile.

7 No doubt, the applicant is in custody since 2018 for about more than 2 years, however, in the facts, if the applicant is released on bail, having regard to his conduct as disclosed by the victim girl and her parents and also having regard to his antecedents, the possibility of the applicant intimidating the victim girl and her family, cannot be ruled out. Accordingly, the application is dismissed.

8 Having regard to the fact, that the applicant is in custody for more than 2 years, it would, be appropriate to expedite the trial of the applicant and make it time-bound. Accordingly, the trial of the applicant is

expedited. The learned Sessions Judge to decide the case as expeditiously as possible and in any event, within four months from the date of receipt of this order.

9 The application is disposed of in the aforesaid terms.

10 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.

REVATI MOHITE DERE, J.