IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

14 BAIL APPLICATION NO. 1669 OF 2021
WITH APPLN/90/2022 IN BA/1669/2021

PUJA VISHAL DHOLE
VERSUS
THE STATE OF MAHARASHTRA

Shri. Shaikh Mazhar A. Jahagirdar, Advocate for the applicant
Shri. A. V. Deshmukh, APP for the respondent/State
Shri. A. C. Darandale, Advocate h/f Shri. P. S. Dighe, Advocate for the informant

CORAM : M. G. SEWLIKAR, J.
DATED : 28th February, 2022

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No. 2095 of 2020 registered with Shrirampur City Police Station, District Ahmednagar for the offences punishable under Sections 376, 376(2)(n), 376-D, 385, 386, 120-B, 201, 420, 323, 506 read with Section 34 of the Indian Penal Code.

2. Facts leading to this application are that accused Prasad Mahamine was the school mate of the informant. Informant married in the year 2014 but she took divorce in the

year 2016. Accused came to know about this development in the life of the informant. Applicant is the husband of sister of accused Prasad. Informant was in search of job. Accused Prasad said to her that she would get a job in Pune as he had contacts in Pune. In August, 2018, informant went to 4th Floor, Gera Sterling, near German Bakery, Usani Nagar, Koregaon Park, Pune for interview upon the information given by accused Prasad that there was a vacancy. Accused Prasad had taken her on motorcycle from bus stop to the venue of interview. After the interview, informant started feeling unwell due to which, accused Prasad gave her a tablet. Accused Prasad is a Medical Representative. Informant believed him and swallowed the tablet. Accused Prasad said to her that she should rest for a while and then she could go to Shrirampur in bus. Thereafter she lost consciousness. When she regained consciousness, she found herself in a lodge. She realised that she was raped by the applicant. Informant started crying loudly. Accused Prasad said to her that he had done video shooting of the informant and he would make the video clip viral. Informant did not take any action because of these threats. In the month of October 2018, again, he committed rape on her in the lodge at Shirdi by putting her in fear of making the video clip viral.

3. It is further alleged in the First Information Report that she got married again in the year 2019. However, she obtained divorce. Accused Prasad got knowledge of the same.

4. It is further alleged that on 15th July, 2019, accused Prasad again called her to Pune for interview at 5th Mile Nagar Road, Clover Park, Viman Nagar, Pune. Accused Prasad took her to Trimurti Vihar, Fursungi, Hadapsar, Pune between 2.00 and 4.45 pm and took her to a lodge and committed rape on her twice. At that time, he had threatened her to make her video clip viral. On 2nd August, 2019, accused Prasad took the informant to his sister Pooja Vishal Dhole. He got her admitted in a Ladies Hostel at Sai Shree PG Accomodation, SP Traders Office line, Near IBM Infocity, Hadapsar, Saswad Road, Fursungi, Pune. He committed rape on her by threatening her to make the video clip viral. Accused Prasad had told the informant that Pooja Dhole does the business of providing tiffins and she works as investment agent.

5. It is further alleged in the First Information Report

that accused Prasad demanded Rs. 5,00,000/- from the informant in the month of November 2019. Informant, because of the threats given by the accused, requested her father to pay Rs. 5,00,000/- to accused Prasad as handloan. Accordingly, amount of Rs. 5,00,000/- was deposited in the account of accused Prasad in Axis Bank on 31st December, 2019. Father of the informant was again forced to transfer amount of Rs. 51,94,600/- in the account of Pooja Dhole.

6. It is further alleged that on 28th February, 2020, at about 8.30 pm, informant had been to the house of Pooja Dhole as Pooja had invited her to her house. At that time, Pooja left the house saying that she would be back in a few moments. At that time, applicant and informant alone were in the house. Applicant closed the door from inside. At that time, informant realised that applicant was under influence of alcohol. She tried to run away but applicant muffled her mouth and dragged her to a bed and threatened her that he would make the video clip viral and thereafter he committed rape on her.

7. It is further alleged that on 5th March, 2020, Pooja

threatened her that she would make viral the video of rape by applicant. This incident happened at 9.00 pm. At that time, informant realised that applicant had prepared video clip of rape. Accused Pooja and applicant took ATM card from the informant and withdrew the amount from ATM. On 6th March, 2020 also, amount was withdrawn from ATM by Pooja and applicant and she retained ATM card with her. Accused Prasad, applicant and Pooja extorted amount of Rs. 61,44,600/- from the informant by threatening her to make the video clip viral. Accordingly, she lodged First Information Report on 21st October, 2020.

8. Heard Shri. Shaikh, learned counsel for the applicant, Shri. Deshmukh, learned APP for the respondent/State and learned counsel Shri. Darandale h/f Shri. Dighe, learned counsel for the informant assisting APP.

9. Learned counsel Shri. Shaikh submits that the only allegation against the applicant is that she abetted the commission of the offence of rape. It is alleged that on 28th February, 2020 at about 8.30 p.m. informant had been to the house of the applicant. Puja left the house on some pretext

saying that she will back in a few minutes. At that time husband of the applicant and informant were alone in the house. He submitted that husband of the applicant committed rape on the informant by putting her in fear of making the obscene photos viral. He submits that from the investigation papers it is clear that there were money transactions between the applicant and the informant. He submits that applicant is an investment agent. This amount was paid by the informant to the applicant for investment. The applicant also transferred substantial amount in the account of the informant. He submits that as per the directions of this Court he has produced the chart showing the amount transferred by the applicant and the amount transferred by the informant. Accordingly, learned counsel for the informant has also prepared a chart giving details of the amount transferred by the applicant and the amount transferred by the informant. He submits that the chart prepared by the learned counsel for the informant shows that substantial amount was transferred from the account of the applicant in the account of the informant. He submits that when there are mutual transactions, it cannot be a case of extortion but it can be at the most a case of money transactions. He submits that so far as abetment is concerned mere absence from the house does not amount to abetting the commission of the offence. He further submits that there is delay of about two years in lodging the complaint.

10. Learned APP Shri. Deshmukh submits that the applicant had put the informant in fear of making the obscene photographs viral. He further submits that video of the sexual assault by the brother of the applicant by the name of Prasad was taken. The applicant had put the informant in fear of making these videos viral and on that basis amount was extorted from the informant. He further submits that in this manner informant parted with an amount of Rs.65 lakhs. In return applicant is shown to have transferred Rs.45 lakhs. He submits that these are fake entries. When amount was transferred in the name of the informant on the same day the informant was forced to re-transfer some amount in the name of the applicant and other accused. He submits that in this manner informant was compelled to transfer hefty amount of Rs.65 lakhs. An amount of Rs.20 lakhs is yet to be recovered.

11. Learned counsel Shri. Darandale for the informant adopted the argument of learned APP Shri. Deshmukh and further submits that the applicant runs a mess and her husband drives an auto rickshaw. He submits that by putting the informant in fear of making the video clips viral, an amount of Rs.65 lakhs was extorted by the applicant and other accused from the informant and her brother. He further submits that the applicant and other accused out of this extorted amount purchased gold. By hypothecating the gold, they took the loan from the bank and did not repay the loan and the bank has sold that gold. He submits that on the basis of the money of the informant the applicant and other accused have amassed a lot of wealth. He, therefore, seeks rejection of the application.

12. So far as extortion is concerned, admittedly there are transactions of money between the applicant and informant and other accused. The chart prepared by the learned counsel for the informant has been placed on record. Learned counsel Shri. Shaikh for the applicant accepts the contents of the chart to be correct on the basis of the documents annexed along with the charge-sheet. This chart shows that an amount of Rs.65 lakhs

was transferred by the informant in the name of the applicant and other accused. The chart further shows that amount of Rs. 45 lakhs and odd amount was transferred by the applicant and other accused in the account of the informant and her brother. From the statement of the informant recorded on 28th June, 2021, it appears that the informant has stated that these were merely the entries to get rid of the offence of extortion. The amount transferred is not a paltry sum. It is the sum to the tune of Rs.45 lakhs and odd amount. Whether this amount was transferred just to evade the offence of extortion will be clear only after recording evidence. At this prima facie stage it appears that there were money transactions between the applicant and the informant and other accused.

13. So far as the allegations against the applicant about abetment of offence of Section 376 of the IPC is concerned the only allegation is that she remained absent and thereafter husband of the applicant committed rape on the informant. This aspect will also be considered by the Trial Court during trial. Applicant is a woman. She is also suffering from various ailments. She is released on interim bail on medical grounds.

Considering her health condition and considering the role played by the applicant, I am inclined to release the applicant on bail. Similarly applicant does not have criminal antecedents. She is not likely to flee from justice. Hence the order.

ORDER

1. Application is allowed.

2. Applicant be released on bail on her furnishing PR bond of Rs. 35,000/- (Rupees Thirty Five Thousand only) with one solvent surety in the like amount in connection with CR No. 2095 of 2020 under Sections 376, 376(2)(n), 376-D, 385, 386, 120-B, 201, 420, 323, 506 read with Section 34 of the Indian Penal Code registered with Shrirampur City Police Station, District Ahmednagar, on condition that she shall not tamper the prosecution evidence.

3. Application is disposed of.

4. It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

5. Pending application, if any, stands disposed of.

[M. G. SEWLIKAR, J.]

ssp