

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

BAIL APPLICATION NO.3909 OF 2021

Pravin @ Vilas Namdev Kamble

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr.Aniket Ujjwal Nikam alongwith Mr.Piyush Toshnival and Vivek Arote
i/by Mr.Amit Icham, Advocates for the Applicant.

Ms.M.R.Tidke, APP for the Respondent/State.

CORAM : VINAY JOSHI, J.

DATE : 28th APRIL, 2022.

P.C.:-

1. Registration of Crime No.260 of 2021 with Shahapuri Police Station, District Satara for the offence punishable under Sections 386, 376(2)(n), 420, 506 of the Indian Penal Code led applicant to approach this court for grant of regular bail in terms of Section 439 of the Cr.P.C.

2. The State opposed bail by pointing towards seriousness of accusation.

3. At the instance of report lodged by the informant victim lady aged 51 years, the crime was registered. It is her case that she had acquaintance with applicant aged 54 years since long. Time to time applicant borrowed money from the victim and returned. In the year 2015 the applicant demanded money on which victim gave her gold ornaments, which were pledged. Likewise in the year 2016 also she gave some gold ornaments to the applicant.

4. It is the victim's case that in the year 2015 first time applicant had forcible physical relations with her. The applicant threatened her for not to disclose and therefore, she maintained silence. Likewise the things were repeated in the year 2016 also. She stated that once the applicant took her to Mahabaleshwar where they had relations. The victim stated that in the year 2020 applicant assured to return the gold ornaments which he had pledged in the bank. Since ornaments worth Rs.11.66 lakhs were not returned, she lodged report for rape.

5. Primely it is a matter for consideration that victim is 51 years of age while applicant is 54 years. Admittedly, both are married and knowing said fact to each other. The alleged act of forcible sexual relations dates back in the year 2015. There is considerable force in the applicant's submission that this is case of long standing consensual relationship. It appears that since gold ornaments were not returned, the report has been lodged. Mere consensual relationship in between two adults cannot be construed as a rape unless otherwise established. Already investigation is complete and charge-sheet has been filed. In view of that, it is a fit case for grant of bail. Hence, the following order :-

- (a) The application stands allowed.
- (b) The Applicant/accused Pravin @ Vilas Namdev Kamble is released on bail in connection with the Crime No.260 of 2021 with Shahapuri Police Station, District Satara for the offence punishable under Sections 386, 376(2)(n), 420, 506 of the Indian Penal Code, on his furnishing P.R. bond of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant/accused shall not directly or indirectly make any inducement, threat or promise to

any person acquainted with the facts of the case, as also shall not tamper with the prosecution evidence.

(d) The above observations are made on *prima facie* basis which has no impact on the merits of the case.

(e) The application stands disposed in above terms.

(VINAY JOSHI, J.)

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