

3] As per the complainant, the applicant expressed that he will perform marriage with her, but since his relationship with his wife and family was estranged he was residing all alone.

The complainant has alleged that on 24.02.2020 the applicant was found in objectionable position in the car belonging to her alongwith a girl and hence she cut off the relationship with him. He, however, tendered his apology. A pen drive was found in her vehicle which according to the complainant contained her objectionable pictures as well as certain nude pictures of other girls and boy. This was the cause of split between them and he consumed some substance and was admitted in the hospital, which resulted in registration of CR No.255/2020 on 04.03.2020 under Section 385 of the Indian Penal Code, where complainant is arraigned as accused.

4] The complainant referred to an incident dated 18.04.2020 where she alleged that she was forced in sexual intercourse and she was assaulted. It is also alleged that he assaulted her in a lift and abused her. This was the cause for complaint, in which the applicant is arraigned as accused.

5] The medical report refer to certain bruise and scratch marks over her right breast. Apart from this no injuries of assault are noticed.

As far as examination of the private part is concerned, since she was habitual to sexual intercourse being a married woman, the report do not establish any case.

6] The learned counsel for the Applicant has placed on record copy of the CR invoking Section 385 of the Indian Penal Code filed with Mumbra Police Station against the present complainant and it refer to

incident dated 04.03.2020 where he makes a reference to the objectionable pictures/ videos of the applicant and it is alleged that for not making the same public, she demanded an amount of Rs.15 Lakh. This constrained him to consume sleeping tablets and therefore complaint is lodged against the complainant.

7] The incident which is reported two months prior to the lodging of the complaint by the complainant is also required to be taken into account while deciding the application. However, truth can only be revealed at the time of trial. As far as accusation under Section 376 are concerned the complainant has specifically stated that she had established physical relationship with the applicant and whether the physical indulgence on 18.04.2020 is forcible and against her will, will be determined at the time of trial.

8] Considering the material compiled in the charge sheet and since the applicant is incarcerated for last two years, he deserve to be released on bail, subject to condition that he shall not in any manner contact the complainant and on an attempt to do so, his liberty shall be curtailed.

Hence, the following order :

(a) Application is allowed.

(b) Applicant – Mohasin Nisar Dongre shall be released on bail in connection with C.R.No.218 of 2020 registered at Shil Daighar Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

(c) The applicant shall report to the concerned Police Station once in every three months.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(e) It is made clear that the observations made above are restricted for determination of the application and the trial Court in any way shall not be influenced by the said observations, limited and restricted for this purpose.

(f) The Applicant shall regularly attend trial, on every date, unless he is exempted.

[BHARATI DANGRE, J]