

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.368 OF 2022

Shivaji Angad Phad .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr. Imtiyaz Patel a/w Suraj Gaikwad & Mr. Sanket Gaikwad for
the Applicant.

Mrs. Anamika Malhotra, A.P.P. for the State/Respondent.

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CORAM: BHARATI DANGRE, J.
DATED : 19th AUGUST, 2022

P.C:-

1. The applicant is charged under section 376, 376 (2)n and 417 of IPC, pursuant to a complaint filed by the prosecutrix on 2/10/2021. He came to be arrested on 3/10/2021 and is incarcerated since then.

On perusal of the material compiled in the charge-sheet, it is the case of the prosecution that the prosecutrix was a married women who had two children from said wedlock. However, in the year 2020, she had obtained divorce from her husband and started residing in her parental house.

She was acquainted to the applicant, who was working in the same company, where she was working and they exchanged their telephone numbers and started chatting with each other. A

bond of friendship developed between them and the applicant become aware that the prosecutrix is a divorcee, he offered helping hand to her and assured her that he would perform marriage with her. Thereafter they started living together and on 7/03/2021, she was taken to a lodge in Dombivali, and on the pretext of performance of marriage forceful sexual intercourse was committed. Thereafter the incident was repeated on 2-3 occasions. On the prosecutrix insisting for performance of marriage, it is alleged that the applicant avoided and even blocked her number. Resultantly, she reported the incident and happenings to the police station after 7 months and lodged a report on 3/10/2021.

2. Considering that the prosecutrix is a married woman, and capable of understanding the consequences of her act, and whether the consent was obtained on a false promise will be a matter to be determined at the time of trial, the applicant deserve his release on bail. Hence, the following order:-

: **ORDER** :

- (a) Application is allowed.
- (b) Applicant -Shivaji Angadphad shall be released on bail in connection with C.R.No. I- 535/2021 registered with Manpada Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.

(c) He shall not in any way make an attempt to establish contact with the prosecutrix or the prosecution witness.

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

(e) The applicant shall make himself available as and when required by the Investigating Officer.

(SMT. BHARATI DANGRE, J.)