

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.472 OF 2022

Mohd.Sadiq Mohd.Hafiz Shaikh .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.M.K.Kocharekar for the Applicant.

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

Mr.Omkar Nagvekar i/b Ms.Prabha Badadare for the
Orig.Complainant, present.

PSI Kolate, attached to Bhiwandi City Police Station, present.

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CORAM: BHARATI DANGRE, J.

DATED : 21st SEPTEMBER, 2022

P.C:-

1. As directed by order dated 14/09/2022, the statement of the prosecutrix is recorded by the Investigating Officer on 18/09/2022.

The said action was deemed to be necessary, since, the prosecutrix had addressed a letter, while the applicant continued to be in custody and it was verified that the letter is written by her. The prosecutrix maintained her stand that she herself had addressed the letter.

In the said letter, she had categorically denied the case of the prosecution as against the present applicant and the

applicant was relegated to the Sessions Court. Once again, the Sessions Court rejected the application and, therefore, the applicant approached this Court, seeking his release on bail, in the wake of the statement of the prosecutrix that the alleged incident never took place.

2. In this background, once again the Investigating Officer has recorded her statement, where she has stated that she suffered from OCD and she visited the applicant, who is related to her, for treatment. However, she deny the prosecution case that he committed rape on her from 16/08/2022 to 17/08/2022 and on the other hand, she has clarified that she was treated by him for the said ailment.

At the end of the statement, she specifically state that she is making the statement on her own free will.

3. Since the prosecutrix is not supporting the prosecution case, the applicant can no longer be incarcerated. Ultimately it depends upon what she would depose before the Court, but at present, in the letter as well as in the statement before the Investigating Officer, she deny the accusations of rape levelled by her against the present applicant. In such circumstances, the applicant deserve his release on bail.

: **ORDER** :

(a) Application is allowed.

(b) Applicant -Mohd.Sadiq Mohd.Hafiz Shaikh shall be released on bail in connection with C.R.No.I-274 of 2020 registered with Bhiwandi City Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or more sureties in the like amount.

The applicant shall be released on cash bail of Rs.25,000/- in lieu of sureties for a period of six weeks and during the said period, he shall arrange for the sureties.

(c) The applicant shall mark his attendance before the concerned police station on first Monday of every trimester between 3.00 p.m. to 5.00 p.m. till framing of charge and, thereafter, shall abide by the directions issued by the trial Court.

(d) The applicant shall not establish the contact with the prosecutrix in any manner and shall not pressurise her to depose in a particular manner before the Court, when he will face a trial for the accusations levelled against him.

(e) 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.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(SMT. BHARATI DANGRE, J.)