

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1223 of 2022

Sufiyan Salim Umar .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr. Khalid Azmi for the applicant.
Mr.S.V. Gavand, APP for the State.
Ms. Rohini Jagtap, PSI, Andheri Police Station.

CORAM: BHARATI DANGRE, J.
DATED : 18th AUGUST 2022

P.C:-

1. The applicant is charged of committing offence of rape, along with section 313 and 420 of IPC. On the complaint lodged by the prosecutrix on 10/11/2021 in respect of the events and happenings from 5/12/2014 to 10/9/2019, he came to be arrested on 8/12/2021. On completion of investigation, charge-sheet is filed but till date charge has not been framed.
2. On perusal of the accusations levelled against the applicant, by the prosecutrix aged 32 years, she has stated that she was introduced to the applicant, who was working in the company where she was also working and it resulted into a bond of friendship between the two. As per the complainant, the

friendship converted into a love affair and it is alleged that the applicant proposed her for marriage, which was readily accepted by her. However, since they were desirous of prosecuting their career in a more effective way and since the two sisters of the applicant were yet to be married, the solemnization of the marriage was postponed.

An incident dated 15/10/2014 is referred to when the complainant and the applicant were all alone in one of their friends house and it is alleged that the applicant demanded sexual favours, which were turned down by the complainant, but expressing that he is in love with her and in any case they are going to get married, it is alleged that forceful sexual intercourse was committed with her. Thereafter various incidents of the same nature are referred to, which had occurred till April, 2017.

3. It is also alleged by the prosecutrix, that some amount was demanded by the applicant from the complainant and in order to satisfy the demand she obtained loan in her name from City Bank, Juhu and though the applicant had undertaken that he would clear the EMI, from March, 2020 he failed to deposit any amount with the bank.

In July 2019, the complainant realized that she had conceived, but since the marriage was decided to be postponed, she was forced to terminate the pregnancy. Once again the pregnancy was terminated, when she conceived and when the complainant insisted for performance of marriage it is alleged

that the applicant gave evasive replies and avoided its performance.

The above allegations resulted in registration of the subject CR in which the applicant remain incarcerated since 8/10/2021.

4. From perusal of the material compiled in the charge-sheet, prima facie it can be seen that the applicant and the complainant shared a close relationship for a period spread over for 5 years and the complaint came to be lodged for the first time on 10/11/2021 i.e. after a period of 2 years after their refusal of marriage by the applicant. The prosecutrix is major and capable of understanding the consequences of the act, and the issue as to whether she had accorded her free consent for the sexual act, which took place in the year 2014 will ultimately be a matter of trial as it will have to be determined whether it was under the false promise of marriage.

However, the applicant cannot continue to be detained, when the material against him is compiled in the charge-sheet and there are no antecedent attributed to him and deserve his release on bail.

: ORDER :

- (a) Application is allowed.
- (b) Applicant - Sufiyan Salim Umar shall be released on bail in connection with C.R.No.1155/21 registered at Andheri Police Station on furnishing P.R. bond to the

extent of Rs.25,000/- with one or two sureties of the like amount.

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

(c) 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. The Applicant should not tamper with evidence.

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

(SMT. BHARATI DANGRE, J.)