

TRUPTI
SADANAND
BAMNE

Digitally signed by
TRUPTI SADANAND
BAMNE
Date: 2022.01.20
19:45:48 +0530

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

BAIL APPLICATION NO. 3637 OF 2021

Suresh Haribhau Keval

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

.....

Mr. Nitin Parkhe for the Applicant.

Mrs. Anamika Malhotra, APP for the Respondent -State.

Mr.Milind Deshmukh for Respondent No.2.

.....

CORAM : V.G.BISHT, J.

RESERVED ON : 10TH DECEMBER, 2021

PRONOUNCED ON : 20TH JANUARY, 2022

PC:-

1. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. 8 of 2020 registered with Junnar Police Station, Pune Rural for the offence punishable under Sections 376 and 506 of the Indian Penal Code (the IPC) and Section 66e of the Information Technology Act.
2. The applicant is cousin brother-in-law of informant.
3. The prosecution alleges that on 8th September, 2019

while informant was working in the field, the applicant forcibly ravished her and also threatened to kill her if the incident was disclosed to anybody. According to prosecution, on 8th October, 2019, the wife of applicant asked informant and her husband to visit her house and accordingly, both of them went there. Prosecution alleges that the applicant then showed video clippings of sexual encounter of the informant to informant's husband. As a result of which, a quarrel took place between informant and her husband. Informant accordingly lodged the First Information Report (FIR).

4. Mr.Parkhe, learned Counsel for the applicant, submits that the informant at the relevant time was a married woman having attained majority and had even lodged a report by post to Police Inspector, Junnar Police Station on 13th November, 2019. However, the present FIR came to be lodged on 7th January, 2020 i.e. after four months of alleged incident. The whole case appears to be a case of consensual relationship and applicant has been falsely implicated. Investigation is over. Applicant is in jail since 20th January, 2020 and there

are no chances of trial to commence in immediate future and conclude within reasonable time. Therefore, the applicant may be enlarged on bail, urged learned Counsel.

5. Mrs. Malhotra, learned APP, on the other hand, opposes the submissions by contending that the offence in question is serious. There being no merit in the application, same is liable to be rejected.

6. Mr. Deshmukh, learned Counsel for respondent No.2, also advanced the similar submissions as advanced by learned APP and would request the rejection of application.

7. Perused investigation papers. It appears from the FIR that the incident in question took place on 8th September, 2019 whereas the informant only lodged the report that too by post on 13th November, 2019. For the first time, she revealed in her complaint that the applicant had threatened her that the incident (of rape) was disclosed to anybody, he would circulate the video recording of the same in the village. Interestingly, this aspect is nowhere revealed in her FIR dated

7th January, 2020 which also came to be filed after four months of the incident.

8. What is alleged in the FIR is that it is only when she and her husband were invited by the applicant's wife, the applicant allegedly showed the video recording of incident to informant's husband, leading to a quarrel between her and her husband.

9. Pertinently enough, she nowhere alleged in the FIR that when the incident in question took place, not only applicant had ravished her but had also recorded the whole act of ravishment.

10. In view of above and the fact that investigation is over, in my considered view, the applicant has made out a case for bail inasmuch as no purpose would be served by allowing him to remain behind the bars. Hence, the following order :

ORDER

(i) Applicant- Suresh Haribhau Keval shall be released on bail in C.R. No. 8 of 2020 registered

with Junnar Police Station, Pune Rural on his executing PR. Bond in the sum of Rs.25,000/- with one or two surety/ sureties in like amount.

(ii) The applicant shall not tamper with prosecution evidence.

(iii) The applicant shall attend the trial Court proceedings regularly.

(iv) Bail before the trial Court.

(v) It is made clear that the observations made herein are *prima facie* and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(vi) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V.G.BISHT, J.)