

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2592 OF 2021**

Farhan Mustakim Khan .. Applicant
Versus
The State of Maharashtra .. Respondent

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Husen Shaikh a/w Rumman Shaikh, Ridhi Joshi for the Applicant.

Rutuja Ambekar, A.P.P. for the State/Respondent.

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**CORAM: BHARATI DANGRE, J.
DATED : 1st AUGUST, 2022**

P.C:-

1. In furtherance of the earlier direction, the learned APP has produced on record, a report from the Directorate of Forensic Science Laboratory, Kalina, in respect of mobile phone, which is apparently seized from the present applicant.

The result of the analysis reveal that the mobile phone was not in working condition and no data could be extracted from it, using available forensic tools in the laboratory.

The report, which is received in a sealed envelope, is returned to the learned APP to be forwarded to the Investigating Officer.

2. The applicant came to be charge-sheeted in C.R. No.1007 of 2020 for the offences punishable under Sections 376(n), 354 (A) and 354(c) of the IPC along with Section 66(E)(C) of the

Information Technology Act. He was arrested on 07/01/2020 and is awaiting his trial.

3. The case of the prosecution is that the complainant has obtained divorce from her husband and she was working with a company in Andheri, where the present applicant was also working. She was introduced to him and the applicant face an accusation that in December, 2019 when the complainant and her friends decided to have a party in the office and, while she was getting ready by changing her clothes in the bathroom, the complainant had taken some pictures and was blackmailing her. In January, 2020, it is alleged that the complainant left the job, but despite this, the applicant was establishing contact with her on the pretext that he shall make the video viral and, on this pretext, it is alleged that he committed forcible sexual intercourse with her. The applicant face accusations under Sections 376 (n) and 354 (A) (C) of the IPC.

4. The medical examination do not reveal any positive evidence, since the complainant is a married woman and she was referred for medical examination one and a half month, after the incident.

5. The case of the prosecution is that, by threatening the complainant that her objectionable video shall be made viral, she was forced to have sexual intercourse. However, since the analysis of mobile data do not reveal any such material as it was not in a working condition, the further incarceration of the applicant become unnecessary.

6. The applicant will, no doubt, take the consequences of his

act, on being tried and since his incarceration is not warranted, he is released on bail. Hence the following order.

: ORDER :

- (a) Application is allowed.
- (b) Applicant – Farhan Mustakin Khan shall be released on bail in connection with C.R.No.1007 of 2020 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.
- (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.
- (e) The applicant shall not in any manner establish contact with the complainant and intimidate her in any way.
- (f) The applicant shall mark his attendance to the concerned Police Station once in a week, for three months.
- (g) On being released on bail, he shall furnish his contact number and the address of his residence to the Investigating Officer.

(SMT. BHARATI DANGRE, J.)