

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3680 OF 2021

Chetan Chandrakant Tambatkar .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr. Sunny Waskar a/w Mr. Shamish Marwadi i/b Mr. Ashok Shukla for the Applicant.

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

CORAM: BHARATI DANGRE, J.
DATED : 12th OCTOBER, 2022

P.C:-

1. The Investigating Officer has filed the affidavit, wherein he has narrated the steps taken by him to trace the victim girl on whose complaint C.R. No. 65 of 2020 was registered.

The Investigating Officer state on oath that he tried to establish contact with the victim girl on her mobile number but it is temporarily out of service. He also visited the address of the victim as given in the FIR, to be revealed that she is not residing on the said address. He make a categorical statement that all efforts are being taken to trace the victim girl.

The said affidavit filed on 10/10/2022 is taken on record.

2. Despite the efforts taken by the Investigating Officer since the victim girl is not served, I have chosen to hear the learned APP in opposing the application filed by the applicant seeking his release on bail, on being accused of offences punishable under Sections 376, 366, 420 of IPC.

3. With the assistance of learned counsel for the applicant and the learned APP, I have perused the charge-sheet filed in the subject C.R. on the complaint filed by the prosecutrix aged 22 years.

She had reported to the police station, narrating that she was acquainted with the applicant since 2018, as he was residing in the neighbourhood. The proximity developed between the two and according to the complainant she shared a love relationship with him. They decided to get married and even the members of both the families were aware of such a relationship, to which there was no opposition.

According to the prosecutrix, he established physical relationship with her on 5 to 6 occasions and she trusted him as

he had assured that he would solemnize the marriage.

4. She was not getting her menses regularly and in October, 2019 she noticed some unusual changes in her body and therefore when she was asked to undergo Sonography, it was revealed that she was carrying a pregnancy of 6 months. She disclosed this fact to the applicant but somehow he avoided to establish contact with her and there was a refusal to perform the marriage. She left the residential premises since she wanted to keep her pregnancy secret and delivered a child on 27/01/2020. On 30/1/2020 she was discharged from the hospital and according to her she dropped the child in a premises which was compounded and which had a big gate, where she abandoned the child and kept a watch, when the watchman took the child inside, she left the premises.

Pertinent to note that for the said act of abandoning the child C.R. No. 83 of 2020 is registered with L.T. Marg Police Station and charge-sheet has been filed against the victim girl. That may be a possible reason why she is fleeing from the course of justice.

5. The applicant has filed his affidavit, where he has made a solemn statement that he is ready to marry the victim girl and also ready to accept the paternity of the child born, out of the relationship. Affidavit of his parents is also placed on record, where they corroborate the applicant. However, since the victim girl herself is not traceable and the child, who was admitted in the child care, as per the instructions of the learned APP is already given in adoption.

6. In such circumstances when the incident was reported, the victim girl was major and she has already stated that the relationship was consensual and though a specific statement was made on behalf of the applicant and his family that they are ready to solemnize the marriage, the victim is not traceable, in above circumstances, I deem it appropriate to release the applicant on bail subject to compliance that if the victim girl is traced within a short while and say in a period of one year, he shall solemnize marriage with her, but he shall not be bound by the statement beyond one year.

Hence the following Order.

: ORDER :

- (a) Application is allowed.
- (b) Applicant - Chetan Chandrakant Tambatkar shall be released on bail in connection with C.R.No. 65 of 2020 registered with Meghwadi Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant shall mark his attendance to the concerned police station on first Monday of every month between 10:00 a.m to 12:00 noon for a period of 1 year and thereafter as and when directed.
- (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.

(SMT. BHARATI DANGRE, J.)