

GRM

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

CRIMINAL BAIL APPLICATION NO. 1736 OF 2022
GOKUL GUNANAND JHA ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
CRIMINAL INTERIM APPLICATION NO. 3261 OF 2022
IN**

CRIMINAL BAIL APPLICATION NO. 1736 OF 2022
REKHA ASHOK SUKHRANI ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Mr. Subhash Jha a/w Mr. Dwivendra Dubey & Mr. Siddharth Jha & Mr. Tushar Bansode i/by Law Global Advocates, Adv. for the applicant.

Mr. N. B. Patil, APP for the Respondent-State.

Ms. S. S. Bhatia i/by S. R. Gupta, Adv. for the intervenor.

Mr. Sagar S. Chavan, API, Mahatma Phule Police Station Thane City.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 14, 2022.

P.C. :

1. Heard learned Counsel for the applicant, learned Counsel for the intervenor/complainant, who opposed this application vehemently and learned APP for the State, who also strongly opposed this application.

2. The FIR in the present case came to be registered on 19/02/2022 for the offence under Sections 376 & 376(2)(n)

of the Indian Penal Code, 1860. The applicant was arrested on 19/02/2022. The applicant at the relevant time was 33 years of age. The applicant was already married. The victim at the relevant time was 34 years of age. They were working in the same office. As per the version of victim, though she was aware that the applicant is married, under the promise by applicant that he will seek divorce from his wife, the applicant and the victim were in a relationship. During the course of this relationship, they had physical relations as well on some occasions. Sometime on 02/02/2022, the victim realized that she is pregnant. When the victim informed this to the applicant, he insisted that she should undergo an abortion and thereafter he will marry her.

3. Learned Counsel for the applicant submitted that the parties were in consensual relationship.

4. Learned Counsel for the victim, on the other hand, vehemently opposed the application. She submitted that out of the relationship, which the victim had with the applicant, she has given birth to a girl child. It is submitted that on the assurance of applicant that he would seek divorce from his wife and marry the victim, she went ahead

with the physical relationship.

5. Learned Counsel for the applicant submitted that the investigation is over and the charge-sheet has been filed.

6. Learned Counsel for the victim submitted that the victim is residing in the area of Ulhas Nagar. On the last occasion the applicant had assured that without prejudice, a sum of Rs. 5 lakhs would be paid to the victim as now she has to look after the child. She, none the less, opposed the release of applicant on bail, as according to her she would be threatened by the applicant and his family members.

7. *Prima-facie* it appears that this is a case of consensual physical relationship. The victim was aware that the applicant is married. During the course of trial it would be decided whether the applicant kept this relationship under the false pretext of marrying the victim. The applicant is in custody for almost 10 months. There are no criminal antecedents reported against the applicant.

8. The applicant's father and the applicant's wife, who are present in the Court, undertake to this Court that they would pay a sum of Rs. 5 lakhs to the victim. To show the bonafides, they said an amount of Rs. 2 lakhs will be

immediately paid to the victim within a period of two days from today and the balance amount within a period of 10 weeks from today.

9. The statement is accepted as an undertaking to this Court. The applicant's father and the applicant's wife shall file an affidavit-cum-undertaking during the course of day regarding payment of the said amount.

10. The applicant, his wife and father shall strictly abide by the above conditions. The apprehension of victim can be taken care of by imposing stringent conditions upon the applicant. Taking an overall view of the matter, with the possibility of the trial not commencing any time soon, the applicant can be released on bail. In the result, the following order is passed :-

ORDER

- (a) Criminal Bail Application No. 1736 of 2022 is allowed.
- (b) The applicant-GOKUL GUNANAND JHA shall be released on bail in connection with C.R. No. 127 of 2022 registered with Mahatma Phule Police Station, Kalyan, District-Thane on his furnishing P.R. Bond of Rs. 25,000/- (Rupees Twenty-five Thousand Only) with one or two sureties in the like amount.
- (c) 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.

(d) The applicant shall report to the Investigating Officer once in a month on first Monday of every month between 10.00 a.m. & 1.00 p.m.

(e) 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.

(f) The applicant and his family members shall not enter the area of Ulhas Nagar where the victim resides till trial is over, except for reporting to the investigating officer.

(g) The applicant and his family members shall strictly abide by the above conditions, otherwise it will be open to the victim to apply for cancellation of bail.

(h) Application is disposed of accordingly.

(i) In view of disposal of the bail application, the interim application also stands disposed of accordingly.

(M. S. KARNIK, J.)