

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 161 OF 2023
(order stands corrected as per order dated 10/10/2023)

Ashish Hasmukhlal Bhavsar .. Applicant
Versus
State of Maharashtra .. Respondent

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Ms.Rinki Agarwal i/b Mr. Dinesh Tiwari and Assoc. for the applicant.

Mr. S.R.Agarkar, APP for the State.

Mr. B.E. Satam, P.S.I., Goregaon Police Station.

CORAM: BHARATI DANGRE, J.

DATED : 26th SEPTEMBER, 2023

P.C:-

1 The applicant came to be arrested on 6/09/2021, when he surrendered himself, in connection with C.R. No. 122 of 2021 registered with Goregaon Police Station.

 On completion of investigation in the subject CR, the charge-sheet is filed on 1/12/2021, which has invoked Section 376 and 506(2) of IPC.

2 The applicant seek his release on bail since the Additional Sessions Judge rejected the application on 10/01/2022 and the application is placed before me in the wake of the order passed by Justice M.S. Karnik on 11/09/2023 on the ground that it is a second bail application, which need to be decided by the same bench, which had earlier heard the same

and disposed it off on 5/07/2022.

3 In this backdrop, I have heard the learned counsel for the applicant.

The material in the charge-sheet would reveal that the complainant alleged that on the pretext of offering a role in a series, she was introduced to the applicant and after being auditioned, she was asked to visit the workshop on 9/03/2021, when she was asked to play a character in the skit, it is alleged that the applicant forcibly committed sexual intercourse with her, in the night after the office was vacated by the occupants.

After the incident she was made to sit in an Auto-Rikshaw and send back to home.

On 10/03/2021, it is alleged that she conveyed to the applicant that she is not desirous of working with him and she also offered to return the papers, in form of a contract for her engagement with him for the Art Film. She received a sum of Rs. 1,40,000/- as a signing amount despite her protest. It is her version that since she was threatened, she did not report about the incident immediately. However, when the incident was reported, she narrated about the happenings and the FIR came to be registered on 23/03/2021.

4 The counsel for the applicant has invited my attention to the charge-sheet filed in connection with C.R. No. 122 of 2021 registered with Panthnagar Police Station, which has invoked Sections 365, 388, 323, 506(2), 504 r/w 34 of IPC against the complainant and 3 others.

The perusal of the charge-sheet would reveal that the complaint is filed by the present applicant alleging that the accused no.1 was blackmailing him and since he was conscious of the false complaint, being lodged by female models and therefore, he had obtain necessary consent from her and he referred to the incident of 9/03/2021, and his version to the Panthnagar Police Station is that they developed cordial relationship, which resulted into indulgence in physical relationship. He thereafter referred to the blackmailing tactics adopted by her and allege that she was assisted by other co-accused.

On finding substance in the accusations, the investigation was conducted and the charge-sheet came to be filed.

The charge-sheet specifically comprise of the material to the effect that it is the accused no.1 i.e. the complainant, who has levelled accusations of rape against him then she asked him to transfer a sum of Rs. 1,40,000/- and also demanded cash amount. He was threatened to transfer balance amount of Rs. 2,40,000/- within period of 10 days and on FIR being filed the accused persons were arrested. While she was in custody, she lodged the complaint, which resulted in invocation of Section 376 and the submission is that it is an afterthought.

5 Taking a *prima facie* view, that there is every possibility of the false implication of applicant, looking to the sequence of events, however, at present since the investigation is already complete and the charge-sheet is filed, I see no reason,

why the applicant should continue to remain incarcerated, though he shall meet the consequences of the accusations levelled against him in the charge-sheet.

Subject to the condition that the applicant shall in no way pressurize the victim by establishing any contact with her, he deserve his release on bail by the following order:

: ORDER :

- (a) Application is allowed.
- (b) Applicant Ashish Hasmukhlal Bhavsar shall be released on bail in connection with C.R.No. 122 of 2021 registered with Goregaon Police Station (in Sessions Case No. 218 of 2022) on furnishing P.R. Bond to the extent of Rs.50,000/- with one or more sureties in the like amount.
- (c) The applicant shall mark his attendance before the concerned police station on first Monday of Trimester between 3:00 p.m. to 5:00 p.m.
- (d) The applicant shall not establish any contact with the complainant or he 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.
- (e) On being released on bail, the applicant shall give his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(SMT. BHARATI DANGRE, J.)